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SCOTTISH STATUTORY INSTRUMENTS

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**2006 No. 530**

**ANIMALS**

**ANIMAL HEALTH**

**The Transmissible Spongiform  
Encephalopathies (Scotland) Regulations 2006**

*Made* - - - - *1st November 2006*  
*Laid before the Scottish*  
*Parliament* - - - - *2nd November 2006*  
*Coming into force* - - *24th November 2006*

The Scottish Ministers, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972<sup>(1)</sup> and of all other powers enabling them in that behalf after consultation as required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety<sup>(2)</sup>, hereby make the following Regulations:

**PART 1**

**General provisions**

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Transmissible Spongiform Encephalopathies (Scotland) Regulations 2006 and shall come into force on 24th November 2006.

(2) These Regulations extend to Scotland only.

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(1) 1972 c. 68. Section 2(2) was amended by the Scotland Act 1998 (c. 46), Schedule 8, paragraph 15(3). The functions conferred upon the Minister of the Crown under section 2(2) of the 1972 Act, insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

(2) O.J. No. L 31, 1.2.02, p.1 as amended by Regulation (EC) No. 1642/2003 of the European Parliament and of the Council (O.J. No. L 245, 29.9.03, p.4) and Commission Regulation (EC) No. 575/2006 amending Regulation (EC) No. 178/2002 of the European Parliament and of the Council as regards the number and names of the permanent Scientific Panels of the European Food Safety Authority.

## Interpretation

### 2.—(1) In these Regulations—

“approved research premises” means premises approved for research purposes by the Secretary of State;

“bovine animal” includes bison and buffalo (including water buffalo);

“BSE” means bovine spongiform encephalopathy;

“bulk” means not enclosed or wrapped in packaging;

“cattle passport” has the same meaning as in the Cattle Identification Regulations 1998<sup>(3)</sup>;

“Community TSE Regulation” means Regulation (EC) No. 999/2001 of the European Parliament and of the Council laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies<sup>(4)</sup>, as amended by, and as read with, the instruments set out in Schedule 1;

“inspector” (except as provided for in Schedule 6) means—

- (a) a person appointed as such for the purposes of these Regulations by the Scottish Ministers, and includes a veterinary inspector; or
- (b) a person appointed as such for the purposes of these Regulations by a local authority in relation to its enforcement responsibilities under these Regulations;

“local authority” means a council constituted under section 2 of the Local Government etc (Scotland) Act 1994<sup>(5)</sup>;

“slaughterhouse” and (except in Schedule 6, paragraph 10(2)(c)) “cutting plant” mean premises—

- (a) approved or conditionally approved as such by the Food Standards Agency under Article 31(2) of Regulation (EC) No. 882/2004 of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules<sup>(6)</sup>; or
- (b) operating as such under Article 4(5) of Regulation (EC) No. 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin<sup>(7)</sup> pending such approval;

“suspect animal” means an animal suspected of having a TSE;

“TSE” means transmissible spongiform encephalopathy;

“TSE susceptible” means capable of having a TSE; and

“veterinary inspector” means a veterinary surgeon appointed by the Scottish Ministers as an inspector.

(2) Expressions defined in the Community TSE Regulation and not defined in these Regulations shall have the same meaning in these Regulations as they have for the purposes of the Community TSE Regulation.

(3) Any reference in these Regulations to anything done in writing or produced in written form includes a reference to an electronic communication, as defined in the Electronic Communications Act 2000<sup>(8)</sup>, which has been recorded and is consequently capable of being reproduced.

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<sup>(3)</sup> S.I. 1998/87; relevant amending instrument is S.I. 2006/1538.

<sup>(4)</sup> O.J. No. L 147, 31.5.01, p.1.

<sup>(5)</sup> 1994 c. 39.

<sup>(6)</sup> O.J. No. L 165, 30.4.04, p.1. The revised text of Regulation (EC) No. 882/2004 is now set out in a Corrigendum (O.J. No. L 191, 28.5.04, p.1).

<sup>(7)</sup> O.J. No. L 139, 30.4.04, p.55. The revised text of Regulation (EC) No. 853/2004 is now set out in a Corrigendum (O.J. No. L 226, 25.6.04, p.22).

<sup>(8)</sup> 2000 c. 7.

### **Appointment of competent authority**

3. The Scottish Ministers are the competent authority for the purposes of the Community TSE Regulation except as otherwise specified in these Regulations.

### **Exception for research**

4.—(1) The provisions of Schedules 2 to 6 do not apply in relation to animals kept for the purposes of research in approved research premises.

(2) If a bovine animal, sheep or goat kept in approved research premises or its progeny dies or is killed, the occupier of the premises shall dispose of it as a Category 1 animal by product in accordance with Regulation (EC) No. 1774/2002 of the European Parliament and of the Council laying down health rules concerning animal by products not intended for human consumption<sup>(9)</sup>, and failure to do so is an offence.

## **PART 2**

### **Introduction of Schedules**

#### **The Schedules**

5. The following Schedules have effect—
- (a) Schedule 2 (monitoring for TSE and contents of an RMOP);
  - (b) Schedule 3 (control and eradication of TSE in bovine animals);
  - (c) Schedule 4 (control and eradication of TSE in sheep and goats);
  - (d) Schedule 5 (feedingstuffs);
  - (e) Schedule 6 (specified risk material, mechanically recovered meat and slaughtering techniques);
  - (f) Schedule 7 (restrictions on dispatch to other member States and to third countries).

## **PART 3**

### **Administration and enforcement**

#### **Approvals, authorisations, licences and registrations**

6.—(1) Subject to paragraph 21 of Schedule 5, the Scottish Ministers shall grant an approval, authorisation, licence or registration under these Regulations if they are satisfied that the provisions of the Community TSE Regulation and these Regulations will be complied with.

(2) It shall be in writing, and shall specify—

- (a) the address of the premises;
- (b) the name of the occupier; and
- (c) the purpose for which it is granted.

(3) It may be made subject to such conditions as are necessary to—

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<sup>(9)</sup> O.J. No. L 273, 10.2.02, p.1 as last amended by Commission Regulation (EC) No. 208/2006, O.J. No. L 36, 8.2.06, p.25.

- (a) ensure that the provisions of the Community TSE Regulation and these Regulations will be complied with; and
  - (b) protect public or animal health.
- (4) If the Scottish Ministers refuse to grant an approval, authorisation, licence or registration, or grant one subject to conditions—
- (a) they shall—
    - (i) give their reasons in writing; and
    - (ii) explain the right of the applicant to make written representations to a person appointed by the Scottish Ministers; and
  - (b) the appeals procedure in regulation 10 applies.

### **Occupier's duty**

7. Subject to paragraph 22 of Schedule 5, the occupier of any premises approved, authorised, licensed or registered under these Regulations commits an offence if that occupier does not ensure that—

- (a) the premises are maintained and operated in accordance with—
  - (i) any condition of the approval, authorisation, licence or registration; and
  - (ii) the requirements of the Community TSE Regulation and these Regulations; and
- (b) any person employed by the occupier, and any person permitted to enter the premises, complies with those conditions and requirements.

### **Suspension and amendment**

8.—(1) Subject to paragraph 23 of Schedule 5, the Scottish Ministers may suspend or amend any approval, authorisation, licence or registration granted under these Regulations if—

- (a) any of the conditions under which it was granted is not fulfilled; or
  - (b) they are satisfied that the provisions of the Community TSE Regulation or these Regulations are not being complied with.
- (2) A suspension or amendment—
- (a) shall have immediate effect if the Scottish Ministers consider it necessary for the protection of public or animal health; and
  - (b) otherwise, shall not have effect for at least 21 days from notification of the suspension or amendment.
- (3) Notification of the suspension or amendment shall—
- (a) be in writing;
  - (b) state when it comes into effect;
  - (c) give the reasons; and
  - (d) explain the right of the person who has been notified to make written representations to a person appointed by the Scottish Ministers.
- (4) The appeals procedure in regulation 10 applies.

(5) If the suspension or amendment does not have immediate effect and representations are made under regulation 10, the suspension or amendment shall not have effect until the final determination of the appeal by the Scottish Ministers unless they consider that it is necessary for the protection of public or animal health for the suspension or amendment to have effect before then.

### **Revocation of approvals, etc.**

**9.**—(1) Subject to paragraph 24 of Schedule 5, the Scottish Ministers may revoke any approval, authorisation, licence or registration granted under these Regulations if they are satisfied that the premises will not be operated in accordance with the Community TSE Regulation or these Regulations and if—

- (a) it is currently suspended and the period for appeal under regulation 10 has expired or they have upheld the suspension following such appeal;
- (b) they have previously suspended it and there is further non compliance with the Community TSE Regulation or these Regulations; or
- (c) they are satisfied that the occupier no longer uses the premises for the purpose for which it was granted.

(2) If the Scottish Ministers make a revocation under paragraph (1)(b) or (c) the appeals procedure in regulation 10 applies but the revocation remains in force during that appeals procedure.

### **Appeals procedure**

**10.**—(1) Where this regulation applies, a person may make written representations concerning a decision within 21 days of notification of that decision to a person appointed for the purpose by the Scottish Ministers.

(2) The appointed person shall report in writing to the Scottish Ministers.

(3) The Scottish Ministers shall give the appellant written notification of their final determination and the reasons for it.

### **Valuations**

**11.**—(1) This regulation applies when a valuation is to be obtained under these Regulations.

(2) The owner and the Scottish Ministers may agree a valuation.

(3) If the owner and the Scottish Ministers cannot agree a valuation, they may jointly appoint a valuer.

(4) If the owner and the Scottish Ministers cannot agree who the valuer shall be, the President of the Institute of Auctioneers and Appraisers in Scotland shall nominate a valuer, and both the owner and the Scottish Ministers shall accept the nomination.

(5) The valuer shall carry out the valuation and submit it and any other relevant information and documentation to the Scottish Ministers, and submit a copy to the owner.

(6) The owner and a representative of the Scottish Ministers each have the right to be present at a valuation.

(7) The valuation is binding on the owner and the Scottish Ministers.

### **Appointment of inspectors**

**12.** The Scottish Ministers or, as the case may be, the local authority shall appoint inspectors for the purposes of the enforcement of these Regulations except as specified in paragraph 1 of Schedule 6.

### **Powers of entry**

**13.**—(1) An inspector may on producing, if so required, some duly authenticated document showing the authority of that inspector, enter at all reasonable hours, any premises (other than

premises used only as a dwelling); and in this regulation “premises” includes any vehicle, container or structure (moveable or otherwise).

(2) An inspector may be accompanied by—

- (a) such other persons as the inspector considers necessary; and
- (b) any representative of the European Commission acting for the purpose of the Community TSE Regulation.

(3) If an inspector enters any unoccupied premises, the inspector shall ensure that they are left as effectively secured against unauthorised entry as they were before entry.

### **Powers of inspectors**

14.—(1) An inspector may—

- (a) seize any—
  - (i) animal;
  - (ii) body of an animal, part of a body of an animal (including the blood and the hide), semen, embryo or ovum; or
  - (iii) animal protein or feedingstuffs that may contain animal protein,
 and dispose of them as necessary;
- (b) carry out any inquiries, investigations, examinations and tests;
- (c) collect, pen and inspect any animal and for this purpose may require the keeper of the animal to arrange for its collection and penning;
- (d) inspect any body of an animal, part of a body of an animal (including the blood and the hide), semen, embryo or ovum;
- (e) inspect any part of the premises, any equipment, facility, operation or procedure;
- (f) take any samples;
- (g) have access to, and inspect and copy any records (in whatever form they are held) in order to determine if these Regulations are being complied with, including records kept under the Community TSE Regulation and these Regulations, or remove such records to enable them to be copied;
- (h) have access to, inspect and check the operation of, any computer and any associated apparatus or material that is or has been in use in connection with any record; and for this purpose may require any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material to afford the inspector such assistance as the inspector may reasonably require (including providing the inspector with any necessary passwords) and, where a record is kept by means of a computer, may require the records to be produced in a form in which they may be taken away;
- (i) mark anything (including an animal) whether electronically or otherwise, for identification purposes; and
- (j) lock or seal any container or store.

(2) Any person who without reasonable cause defaces, obliterates, or removes any mark or seal, or removes any lock, applied under paragraph (1) is guilty of an offence.

(3) An inspector is not personally liable for any act done in the execution or purported execution of these Regulations if the inspector acted in the honest belief that a duty under these Regulations required it or entitled it to be done; but this does not relieve the Scottish Ministers or a local authority from any liability in respect of the acts of an inspector authorised or appointed by them.

## Notices

**15.**—(1) If it is necessary for any reason connected with the enforcement of the Community TSE Regulation or these Regulations an inspector may serve a notice on—

- (a) the owner or keeper of any animal;
  - (b) the person in possession of any animal, body of an animal, part of a body of an animal (including the blood and the hide) semen, embryo or ovum; or
  - (c) the person in possession of any animal protein or feedingstuffs that may contain animal protein.
- (2) The notice shall be in writing, and shall give the reasons for it being served.
- (3) The notice may—
- (a) prohibit the movement of any animal onto or from the premises specified in the notice;
  - (b) specify those parts of premises to which an animal may or may not be allowed access;
  - (c) require the killing or slaughter of any animal;
  - (d) prohibit or require the movement onto or from premises specified in the notice of the body or any part of the body (including the blood and the hide) of any animal, any animal protein or feedingstuffs that may contain animal protein, and any animal semen, embryo or ovum;
  - (e) require the disposal of the body or any part of the body (including the blood and the hide) of any animal (whether or not it is one that was required to be retained), and any semen, embryo or ovum as may be specified in the notice;
  - (f) require the disposal of any animal protein or feedingstuffs that may contain animal protein or specify how they are to be used; or
  - (g) require the recall of any animal protein or feedingstuffs that may contain animal protein.
- (4) If an inspector suspects that any premises, vehicle, container or structure to which the Community TSE Regulation or these Regulations apply constitutes a risk to animal or public health, the inspector may serve a notice on the occupier or person in charge of the premises, vehicle, container or structure requiring that person to cleanse and disinfect all or any part of the premises, vehicle, container or structure and any associated equipment.
- (5) A notice may specify how it shall be complied with, and specify time limits.
- (6) A notice shall be complied with at the expense of the person on whom it is served, and if it is not complied with an inspector may arrange to have it complied with at that person's expense.
- (7) Failure to comply with a notice is an offence.

## Notices restricting movement

**16.**—(1) If a notice is served restricting movement, an inspector may subsequently permit movement under the authority of a licence.

(2) The person transporting under the authority of a licence shall carry the licence during movement, and produce it on demand to an inspector.

(3) Failure to comply with paragraph (2) is an offence.

## Obstruction

**17.** Any person who—

- (a) intentionally obstructs an inspector acting under these Regulations;
- (b) without reasonable cause, fails to give to an inspector acting under these Regulations any assistance or information or to provide any facilities that the inspector may reasonably

require that person to give or provide for the performance of the inspector's functions under these Regulations;

- (c) gives false or misleading information to an inspector acting under these Regulations; or
- (d) fails to produce a record when required to do so by an inspector acting under these Regulations,

is guilty of an offence.

### **Penalties**

**18.** A person guilty of an offence under these Regulations is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months or both; or
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or both.

### **Offences by bodies corporate**

**19.**—(1) Where a body corporate is guilty of an offence under these Regulations, and that offence is shown to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of—

- (a) any director, manager, secretary or other similar officer of the body corporate; or
- (b) any person who was purporting to act in any such capacity,

that person as well as the body corporate shall be guilty of an offence and be liable to be proceeded against and punished accordingly.

(2) If the affairs of a body corporate are managed by its members, the provisions of paragraph (1) shall apply in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.

(3) For the purposes of paragraph (1), "director" in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate and "body corporate" includes a partnership in Scotland, and, in relation to such a partnership, a reference to a director or other officer of a body corporate is a reference to a partner.

### **Enforcement**

**20.**—(1) Subject to sub-paragraphs (2), (3) and (4), these Regulations shall be enforced by the local authority.

(2) The Scottish Ministers shall enforce Schedule 2 in slaughterhouses and cutting plants.

(3) The Food Standards Agency shall enforce Schedule 6 in slaughterhouses and cutting plants.

(4) The Scottish Ministers may direct, in relation to cases of a particular description or any particular case, that an enforcement duty imposed on the local authority under this regulation shall be discharged by the Scottish Ministers and not by the local authority.

### **Miscellaneous amendments**

**21.** The miscellaneous amendments specified in Schedule 8 shall have effect.

### **Consequential amendments**

**22.** The consequential amendments specified in Schedule 9 shall have effect.

## **Revocations**

**23.** The enactments specified in the first column of Schedule 10 are revoked to the extent specified in the corresponding entry in the third column of that Schedule.

St Andrew's House, Edinburgh  
1st November 2006

*ROSS FINNIE*  
A member of the Scottish Executive

## SCHEDULE 1

Regulation 2

## Instruments relevant to the Community TSE Regulation

The Community TSE Regulation has been amended by, and shall be read with—

- (a) Commission Regulation (EC) No. 1248/2001 amending Annexes III, X and XI to Regulation (EC) No. 999/2001 of the European Parliament and of the Council as regards epidemic surveillance and testing of transmissible spongiform encephalopathies<sup>(10)</sup>;
- (b) Commission Regulation (EC) No. 1326/2001 laying down transitional measures to permit the changeover to Regulation (EC) No. 999/2001 of the European Parliament and of the Council for the prevention, control and eradication of certain transmissible spongiform encephalopathies, and amending Annexes VII and XI to that Regulation<sup>(11)</sup>;
- (c) Commission Regulation (EC) No. 270/2002 amending Regulation (EC) No. 999/2001 of the European Parliament and of the Council as regards specified risk material and epidemic surveillance for transmissible spongiform encephalopathies and amending Regulation (EC) No. 1326/2001 as regards animal feeding and placing on the market of ovine and caprine animals and products thereof<sup>(12)</sup>;
- (d) Commission Regulation (EC) No. 1494/2002 amending Annexes III, VII and XI to Regulation (EC) No. 999/2001 of the European Parliament and the Council as regards monitoring of bovine spongiform encephalopathy, eradication of transmissible spongiform encephalopathy, removal of specified risk materials and rules for importation of live animals and products of animal origin<sup>(13)</sup>;
- (e) Commission Regulation (EC) No. 260/2003 amending Regulation (EC) No. 999/2001 of the European Parliament and of the Council as regards the eradication of transmissible spongiform encephalopathies in ovine and caprine animals and rules for the trade in live ovine and caprine animals and bovine embryos<sup>(14)</sup>;
- (f) Commission Regulation (EC) No. 650/2003 amending Regulation (EC) No. 999/2001 of the European Parliament and of the Council as regards the import of live ovine and caprine animals<sup>(15)</sup>;
- (g) Commission Regulation (EC) No. 1053/2003 amending Regulation (EC) No. 999/2001 of the European Parliament and of the Council as regards rapid tests<sup>(16)</sup>;
- (h) Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded<sup>(17)</sup>;
- (i) Regulation (EC) No. 1128/2003 of the European Parliament and of the Council amending Regulation (EC) No. 999/2001 as regards the extension of the period for transitional measures<sup>(18)</sup>;

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<sup>(10)</sup> O.J. No. L 173, 27.6.01, p.12.

<sup>(11)</sup> O.J. No. L 177, 30.6.01, p.60.

<sup>(12)</sup> O.J. No. L 45, 15.2.02, p.4.

<sup>(13)</sup> O.J. No. L 225, 22.8.02, p.3.

<sup>(14)</sup> O.J. No. L 37, 13.2.03, p.7.

<sup>(15)</sup> O.J. No. L 95, 11.4.03, p.15.

<sup>(16)</sup> O.J. No. L 152, 20.6.03, p.8.

<sup>(17)</sup> O.J. No. L 236, 23.9.03, p.33.

<sup>(18)</sup> O.J. No. L 160, 28.6.03, p.1.

- (j) Commission Regulation (EC) No. 1139/2003 amending Regulation (EC) No. 999/2001 of the European Parliament and of the Council as regards monitoring programmes and specified risk material(19);
- (k) Commission Regulation (EC) No. 1234/2003 amending Annexes I, IV and XI to Regulation (EC) No. 999/2001 of the European Parliament and of the Council and Regulation (EC) No. 1326/2001 as regards transmissible spongiform encephalopathies and animal feeding(20);
- (l) Commission Regulation (EC) No. 1809/2003 amending Regulation (EC) No. 999/2001 of the European Parliament and of the Council as regards rules for importation of live bovine animals and products of bovine, ovine and caprine origin from Costa Rica and New Caledonia(21);
- (m) Commission Regulation (EC) No. 1915/2003 amending Annexes VII, VIII and IX to Regulation (EC) No. 999/2001 of the European Parliament and of the Council as regards the trade and import of ovine and caprine animals and the measures following the confirmation of transmissible spongiform encephalopathies in bovine, ovine and caprine animals(22);
- (n) Commission Regulation (EC) No. 2245/2003 amending Annex III to Regulation (EC) No. 999/2001 of the European Parliament and of the Council as regards monitoring of transmissible spongiform encephalopathies in ovine and caprine animals(23);
- (o) Commission Regulation (EC) No. 876/2004 amending Annex VIII to Regulation (EC) No. 999/2001 of the European Parliament and of the Council as regards trade in ovine and caprine animals for breeding(24);
- (p) Commission Regulation (EC) No. 1471/2004 amending Annex XI to Regulation (EC) No. 999/2001 of the European Parliament and of the Council as regards the import of cervid products from Canada and the United States(25);
- (q) Commission Regulation (EC) No. 1492/2004 amending Regulation (EC) No. 999/2001 of the European Parliament and of the Council as regards eradication measures for transmissible spongiform encephalopathies in bovine, ovine and caprine animals, the trade and importation of semen and embryos of ovine and caprine animals and specified risk material(26);
- (r) Commission Regulation (EC) No. 1993/2004 amending Regulation (EC) No. 999/2001 of the European Parliament and of the Council as regards Portugal(27);
- (s) Commission Regulation (EC) No. 36/2005 amending Annexes III and X to Regulation (EC) No. 999/2001 of the European Parliament and of the Council as regards epidemio-surveillance for transmissible spongiform encephalopathies in bovine, ovine and caprine animals(28);
- (t) Commission Regulation (EC) No. 214/2005 amending Annex III to Regulation (EC) No. 999/2001 of the European Parliament and of the Council as regards monitoring of transmissible spongiform encephalopathies in caprine animals(29);

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(19) O.J. No. L 160, 28.6.03, p.22.

(20) O.J. No. L 173, 11.7.03, p.6.

(21) O.J. No. L 265, 16.10.03, p.10.

(22) O.J. No. L 283, 31.10.03, p.29.

(23) O.J. No. L 333, 20.12.03, p.28.

(24) O.J. No. L 162, 30.4.04, p.52.

(25) O.J. No. L 271, 19.8.04, p.24.

(26) O.J. No. L 274, 24.8.04, p.3.

(27) O.J. No. L 344, 20.11.04, p.12.

(28) O.J. No. L 10, 13.1.05, p.9.

(29) O.J. No. L 37, 10.2.05, p.9.

- (u) Commission Regulation (EC) No. 260/2005 amending Regulation (EC) No. 999/2001 of the European Parliament and of the Council as regards rapid tests(30);
- (v) Regulation (EC) No. 932/2005 of the European Parliament and of the Council amending Regulation (EC) No. 999/2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies as regards the extension of the period for transitional measures(31);
- (w) Commission Decision 2005/598/EC prohibiting the placing on the market of products derived from bovine animals born or reared within the United Kingdom before 1st August 1996 for any purpose and exempting such animals from certain control and eradication measures laid down in Regulation (EC) No. 999/2001(32);
- (x) Commission Regulation (EC) No. 1292/2005 amending Annex IV to Regulation (EC) No. 999/2001 of the European Parliament and of the Council as regards animal nutrition(33);
- (y) Commission Regulation (EC) No. 1974/2005 amending Annexes X and XI to Regulation (EC) No. 999/2001 of the European Parliament and of the Council as regards national reference laboratories and specified risk material(34);
- (z) Commission Regulation (EC) No. 253/2006 amending Regulation (EC) No. 999/2001 of the European Parliament and of the Council as regards rapid tests and measures for the eradication of TSEs in ovine and caprine animals(35);
- (aa) Commission Regulation (EC) No. 339/2006 amending Annex XI to Regulation (EC) No. 999/2001 of the European Parliament and of the Council as regards the rules for importation of live bovine animals and products of bovine, ovine and caprine origin(36);
- (bb) Commission Regulation (EC) No. 657/2006 amending Regulation (EC) No. 999/2001 of the European Parliament and of the Council as regards the United Kingdom and repealing Council Decision 98/256/EC and Decisions 98/351/EC and 1999/514/EC(37).
- (cc) Commission Regulation (EC) No. 688/2006 amending Annexes III and XI to Regulation (EC) No. 999/2001 of the European Parliament and of the Council as regards the monitoring of transmissible spongiform encephalopathies and specified risk material of bovine animals in Sweden(38); and
- (dd) Commission Regulation (EC) No. 1041/2006 amending Annex III to Regulation (EC) No. 999/2001 of the European Parliament and of the Council as regards monitoring of transmissible spongiform encephalopathies in ovine animals(39).

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(30) O.J. No. L 46, 17.2.05, p.31.

(31) O.J. No. L 163, 23.6.05, p.1.

(32) O.J. No. L 204, 5.8.05, p.22.

(33) O.J. No. L 205, 6.8.05, p.3.

(34) O.J. No. L 317, 3.12.05, p.4.

(35) O.J. No. L 44, 15.2.06, p.9.

(36) O.J. No. L 55, 25.2.06, p.5.

(37) ) O.J. No. L 116, 29.4.06, p.9.

(38) O.J. No. L 120, 5.5.06, p.10.

(39) O.J. No. L 187, 8.7.06, p.10.

SCHEDULE 2

Regulation 5

TSE monitoring

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## PART 1

### Monitoring for TSE

#### **Notifications for the purposes of monitoring under Article 6 of the Community TSE Regulation**

1.—(1) For the purposes of monitoring under Article 6 of the Community TSE Regulation, a person who has possession or control of the body of a bovine animal that must be tested in accordance with point 3(1) of Part I of Chapter A of Annex III to that Regulation, or the body of any goat aged 18 months or over at death, shall—

- (a) within 24 hours from the time when the animal dies or is killed or the body comes into that person's possession or charge notify the Scottish Ministers; and
- (b) retain it until it has been collected by or on behalf of the Scottish Ministers,

and failure to do so is an offence.

(2) This paragraph does not apply in relation to goats slaughtered for human consumption or killed in accordance with Schedule 4.

#### **Consignment and slaughter of over-age bovine animals**

2. If a bovine animal was born or reared in the United Kingdom before 1st August 1996, it is an offence—

- (a) to consign it to a slaughterhouse for human consumption (whether the animal is alive or dead); or
- (b) to slaughter it for human consumption in a slaughterhouse.

#### **Brain stem sampling of bovine animals**

3.—(1) The occupier of a slaughterhouse in which a bovine animal specified in point 2(1) or 2(2) of Part I of Chapter A of Annex III to the Community TSE Regulation is slaughtered shall—

- (a) take a sample of brain stem in accordance with point 1 of Chapter C of Annex X to the Community TSE Regulation; and
- (b) arrange for it to be delivered to an approved testing laboratory,

and failure to do so is an offence.

(2) The Scottish Ministers shall, by means of a notice, notify the occupier of a slaughterhouse if a bovine animal comes into the categories specified in point 2(1) of Part I of Chapter A to Annex III to the Community TSE Regulation (except in the case of a dead animal consigned to a slaughterhouse with a written declaration from a veterinary surgeon that it falls into one of those categories).

(3) In accordance with point 5 of Part I of Chapter A of Annex III to the Community TSE Regulation, the Scottish Ministers may serve a notice on the occupier of a slaughterhouse requiring the occupier to sample and send for testing in accordance with sub paragraph (1) any bovine animal slaughtered there.

(4) The Scottish Ministers shall approve laboratories to test samples taken under this paragraph if they are satisfied that the laboratory—

- (a) will carry out the testing in accordance with Chapter C of Annex X to the Community TSE Regulation;
- (b) has adequate quality control procedures; and

(c) has adequate procedures to ensure the correct identification of the samples and notification of the test results to the consigning slaughterhouse.

(5) In this paragraph “approved testing laboratory” means a laboratory approved under this paragraph or a laboratory in another part of the United Kingdom approved by the competent authority in that part of the United Kingdom to carry out the test.

#### **Slaughter of bovine animals over 30 months of age**

4.—(1) It is an offence for the occupier of a slaughterhouse to use the slaughterhouse to slaughter for human consumption a bovine animal aged over 30 months unless the Scottish Ministers have approved the Required Method of Operation (referred to in this Schedule as “RMOP”) for that slaughterhouse and that occupier.

(2) The RMOP shall, as a minimum—

- (a) describe the procedures that will be followed to comply with Part 1 of this Schedule; and
- (b) describe all the systems and procedures specified in Part 2 of this Schedule.

(3) The Scottish Ministers shall approve the RMOP if they are satisfied that all the requirements of the Community TSE Regulation and these Regulations will be complied with, and the occupier shall demonstrate this by means of an assessment of two days duration in which bovine animals are slaughtered (using bovine animals under 30 months old unless the slaughterhouse is operating for the purposes of Commission Regulation (EC) No. 716/96 adopting exceptional support measures for the beef market in the United Kingdom<sup>(40)</sup>).

(4) If a bovine animal aged over 30 months is slaughtered for human consumption other than in accordance with the RMOP, the occupier of the slaughterhouse is guilty of an offence.

#### **Retention of products and disposal**

5.—(1) In relation to any sampled bovine animal, the occupier of a slaughterhouse, hide market or tannery shall, for the purposes of point 6(3) of Part I of Chapter A of Annex III to the Community TSE Regulation and pending receipt of the test result, either—

- (a) retain all carcasses and all parts of the body (including the blood and the hide) that will have to be disposed of in the event of a positive result; or
- (b) dispose of them in accordance with sub paragraph (2).

(2) For the purposes of points 6(4) and 6(5) of that Part, if a positive result is received for a sampled bovine animal, the occupier of the slaughterhouse shall immediately dispose of—

- (a) the carcass and all parts of the body of that animal (including the blood and the hide); and
- (b) unless a derogation has been granted under point 6(6) of that Part, the carcass and all parts of the body (including the blood and the hide) of the animal immediately preceding that animal on the slaughter line and the two animals immediately following it,

in accordance with point 6(4) of that Part.

(3) If no sample has been sent to an approved testing laboratory for testing in accordance with paragraph 3 of this Schedule, or if a no test result is received, in respect of a bovine animal required to be tested under this Schedule, the occupier shall immediately dispose of—

- (a) the carcass and all parts of the body (including the blood and the hide) of that animal; and
- (b) unless a derogation has been granted under point 6(6) of Part I of Chapter A of Annex III to the Community TSE Regulation, the carcass and all parts of the body (including the

<sup>(40)</sup> O.J. No. L 99, 20.4.96, p.14, as last amended by Commission Regulation (EC) No. 2109/2005 (O.J. No. L 337, 22.12.05, p.25).

blood but not the hide) of the animal immediately preceding that animal on the slaughter line and the two animals immediately following it,

in accordance with point 6(4) of that Part; and for the purposes of this sub paragraph “no test result” means a sample that an approved testing laboratory has certified cannot be tested for any reason.

(4) The Scottish Ministers may grant in writing a derogation under point 6(6) of Part I of Chapter A of Annex III to the Community TSE Regulation if they are satisfied that there is a system in place that prevents contamination between carcasses.

(5) In relation to any sampled sheep or goat, the occupier of a slaughterhouse, hide market or tannery shall—

- (a) for the purposes of point 7(3) of Part II of Chapter A of Annex III to the Community TSE Regulation, retain the carcass and all parts of the body (including the blood and the hide) pending receipt of the test result; and
- (b) in the event of a positive result, immediately dispose of the carcass and all parts of the body (including the blood and the hide) in accordance with point 7(4) of that Part.

(6) Any person who fails to comply with sub paragraphs (1) to (3) or (5) is guilty of an offence.

### **Compensation**

**6.—(1)** If a bovine animal slaughtered for human consumption tests positive, the Scottish Ministers shall pay compensation for the carcass and all parts of the body (including the blood and the hide) of—

- (a) that animal; and,
- (b) if they are destroyed because of that positive result, the animal immediately preceding it on the slaughter line and the two animals immediately following it.

(2) In the case of a bovine animal for which a no test result (as described in paragraph 5(3)) is received the Scottish Ministers shall—

- (a) inform the owner in writing whether they intend to pay compensation for—
  - (i) the carcass and all parts of the body (including the blood and the hide) of that animal; and
  - (ii) if they are destroyed because of that no test result, the carcass and all parts of the body (including the blood but not the hide) of the animal immediately preceding it on the slaughter line and the two animals immediately following it; and
- (b) if they do not intend to pay compensation, give their reasons in writing, and the appeals procedure in regulation 10 applies.

(3) The compensation is the market value, established under the procedure in regulation 11, with the occupier paying any fee arising for nominating and employing a valuer.

(4) Compensation is not payable in any other case.

## **PART 2**

### **Contents of an RMOP**

#### **Animal identification and separation**

**7.—(1)** The RMOP shall describe the system that—

- (a) enables bovine animals born or reared in the United Kingdom before 1st August 1996 to be identified and ensures that they are not slaughtered for human consumption;

- (b) enables bovine animals over 30 months of age but born on or after 1st August 1996 to be identified and ensures that they are sampled in accordance with this Schedule; and
  - (c) enables bovine animals specified in point 2(1) of Part I of Chapter A of Annex III to the Community TSE Regulation to be identified and ensures that they are sampled in accordance with this Schedule.
- (2) It shall also describe the system that ensures that bovine animals over 30 months of age are—
- (a) batched together before slaughter separately from those aged 30 months or under; and
  - (b) slaughtered in batches separately from those aged 30 months or under.

### **Brain stem sampling**

- 8.—(1) The RMOP shall describe how the slaughterhouse occupier will ensure that there are—
- (a) sufficient staff trained and competent in the taking, labelling, packaging and dispatch of brain stem samples;
  - (b) hygienic facilities for sampling; and
  - (c) sampling procedures that do not jeopardise the hygienic production of meat intended for human consumption.

(2) It shall describe how health and safety guidelines designed to minimise the risk of exposure of staff to BSE during brain stem sampling and packaging will be complied with.

### **Correlation of sample to carcass and all other parts of the body**

9. The RMOP shall describe the system linking the brain stem sample of each bovine animal over 30 months of age to the carcass of that animal and all parts of the body of that animal (including the blood and the hide).

### **Retention of carcasses**

10.—(1) The RMOP shall describe the system that ensures that all carcasses retained in accordance with paragraph 5(1) of this Schedule are retained in slaughter order either in a sealed or locked chiller or on a sealed or locked rail in an unsealed chiller pending the receipt of the test result.

(2) It shall describe how the occupier will ensure that there is suitable and sufficient chiller space for retaining carcasses for the purposes of this Schedule.

### **Retention of parts of the body**

11. The RMOP shall describe the system that ensures that all parts of the body (including the blood and the hide) are retained in accordance with paragraph 5(1) of this Schedule.

### **Disposal before receipt of the result**

12. The RMOP shall describe the disposal arrangements for all carcasses and all parts of the body (including the blood and the hide) retained pending receipt of a test result but disposed of before the test result is received.

### **Other measures following sampling**

13. The RMOP shall describe the systems in place that ensure that—

- (a) brain stem samples are packaged in accordance with packaging instructions P650 of the European Agreement Concerning the International Carriage of Dangerous Goods by Road (version applicable as from 1st January 2005)(41);
- (b) test results are received, either by fax or by other electronic means; and
- (c) following a positive or a no test result (as described in paragraph 5(3)), everything required to be disposed of in accordance with point 6(4) or 6(5) of Part I of Chapter A of Annex III to the Community TSE Regulation or under this Schedule is identified and disposed of accordingly.

### Removal of vertebral column

14. The RMOP shall describe the system that ensures that, in the case of a bovine animal for which a negative test result has been received—

- (a) those parts of the vertebral column that are specified risk material are not removed in the slaughterhouse; and
- (b) the meat containing that specified risk material is consigned to a cutting plant authorised under paragraph 13 of Schedule 6 to remove it.

## SCHEDULE 3

Regulation 5

### Control and eradication of TSE in bovine animals

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### **Notification**

1.—(1) For the purposes of Article 11 of the Community TSE Regulation, any person who has possession or control of any bovine animal suspected of having a TSE shall immediately notify the Scottish Ministers and retain it on the premises until it has been examined by a veterinary inspector.

(2) Any veterinary surgeon who examines or inspects any bovine animal suspected of having a TSE shall, with all practical speed, notify the Scottish Ministers.

(3) Any person (other than the Scottish Ministers) who examines the body of any bovine animal, or any part of it, in a laboratory and who reasonably suspects the presence of a TSE shall immediately notify the Scottish Ministers, and retain the body and any parts of it until a veterinary inspector has authorised disposal.

(4) Failure to comply with this paragraph is an offence.

### **Restriction of a notified animal**

2. When a bovine animal is the subject of notification under paragraph 1 an inspector may serve a notice prohibiting its movement from the premises pending determination of whether or not it is suspected of having BSE.

### **Killing of a suspect animal**

3.—(1) For the purposes of paragraphs (1) and (2) of Article 12 of the Community TSE Regulation, if a veterinary inspector suspects that a bovine animal has BSE the inspector shall—

- (a) cause it to be killed on the holding immediately; or
- (b) remove its cattle passport and serve a notice prohibiting the animal from being moved from the holding until it has been killed; or
- (c) ensure that its cattle passport is stamped “Not for human consumption” and serve a notice directing the owner to consign it to other premises for killing and prohibiting movement other than in accordance with that direction.

(2) The inspector shall restrict the movement of other bovine animals in accordance with the second and fourth paragraphs of Article 12(1) of the Community TSE Regulation and Article 2(1) (a) of Commission Decision [2005/598/EC](#).

(3) In accordance with Article 12(3) of the Community TSE Regulation, if the suspect animal is killed on the holding, it is an offence to remove the body from that holding except in accordance with a written direction from an inspector.

(4) If the suspect animal is not killed immediately, its keeper shall dispose of its milk in such a way that it cannot be consumed by humans or animals except its own calf or animals kept for research purposes, and failure to comply with this sub paragraph is an offence.

### **Identification and restriction of progeny and cohorts**

4.—(1) In accordance with Articles 12(1) and 13(2) of the Community TSE Regulation, if—

- (a) a veterinary inspector suspects that a bovine animal has BSE;
- (b) the monitoring of bovine animals under Schedule 2 or under Annex III to the Community TSE Regulation confirms that an animal is suspected of having BSE; or
- (c) the competent authority of another part of the United Kingdom or another member State notifies the Scottish Ministers that a bovine animal is suspected of having BSE,

an inspector shall identify—

- (i) if the suspect animal is female, all its progeny born within two years prior to, or after, clinical onset of the disease; and
  - (ii) all its bovine cohorts born on or after 1st August 1996,
- and for these purposes the animal's date of birth is the one shown on its cattle passport.
- (2) An inspector shall serve notices prohibiting movement of the animals identified in accordance with sub-paragraph (1) from the holding on which they are kept or where the inspector suspects they may be kept (whether or not this is the same holding as that of the suspect animal) and remove their cattle passports.
- (3) If the inspector cannot immediately identify the animals specified in sub paragraph (1) the inspector shall prohibit the movement of all bovine animals from the holding pending identification.
- (4) Movements of restricted animals are only permitted in accordance with regulation 16.

#### **Action following confirmation**

- 5.—(1) In accordance with Article 13(1)(c) of, and point 2 of Annex VII to, the Community TSE Regulation, when it is confirmed that a bovine animal had BSE an inspector shall cause to be killed—
- (a) if the animal is female, all its progeny born within two years prior to, or after, clinical onset of the disease; and
  - (b) in all cases, all the bovine animals in its cohort born on or after 1st August 1996 except where—
    - (i) an inspector is satisfied that the animal did not have access to the same feed as the animal in which BSE was confirmed; or
    - (ii) the animal is a bull that is kept at, and will not be removed from, a semen collection centre, but it is an offence to remove the animal from the centre except to be killed, and when it is killed the owner shall ensure that the carcase is completely destroyed, and failure to do so is an offence.
- (2) If the animal is not killed on the holding, an inspector shall ensure that its cattle passport is stamped “Not for human consumption” and shall serve a notice directing the owner to consign it to other premises for killing as specified in the direction.
- (3) If the test is negative the inspector shall remove all restrictions imposed because of the suspect animal and return the cattle passports.
- (4) When an animal is killed under this paragraph, it is an offence to remove the body of the animal from the premises on which it was killed except in accordance with a written direction from an inspector.

#### **Death while under restriction**

6. If a bovine animal dies or is killed other than in accordance with Article 12(1) and (2) of the Community TSE Regulation while it is under restriction for any reason under this Schedule, the owner shall immediately notify the Scottish Ministers, and retain the body on the premises until the owner is directed in writing to move or dispose of it by an inspector, and it is an offence not to comply with this paragraph or to fail to comply with a direction under it.

#### **Placing on the market of progeny**

7. Any person who places on the market a bovine animal in contravention of Article 15(2) of the Community TSE Regulation and Chapter B of Annex VIII to that Regulation is guilty of an offence.

### When compensation is payable

8. The Scottish Ministers shall pay compensation—
- when an animal is killed under this Schedule;
  - when an animal is to be killed under this Schedule, and has been valued for the purposes of compensation, but dies (or is killed for other reasons) after valuation; or
  - where an animal is subject to a movement restriction under this Schedule and has to be killed as an emergency and a veterinary surgeon has declared in writing that the animal would otherwise have been fit for human consumption in accordance with Chapter VI of Section 1 of Annex III to Regulation (EC) No. 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin<sup>(42)</sup>, in which case compensation is the market value of the body (including the blood and the hide).

### Amount of compensation payable

9.—(1) The compensation is the average price paid in Great Britain for that age and category of animal—

- for a pedigree animal, in the previous six months; and
- for any other bovine animal, in the previous month.

(2) A pedigree animal is one for which a pedigree certificate has been issued by a breeders' organisation or association that fulfils the conditions of Council Decision 84/247/EEC laying down the criteria for the recognition of breeders' organisations and associations which maintain or establish herd-books for pure-bred breeding animals of the bovine species<sup>(43)</sup>.

(3) The Scottish Ministers shall categorise animals as follows, and for the purposes of determining which category the animal falls into, the age of the animal is the age, as shown by its cattle passport, at the date on which the notice of intention to kill was served.

<i>Categories</i>	
<i>Male</i>	<i>Female</i>
<b>Beef Sector – non-pedigree animal</b>	
Up to and including 3 months	Up to and including 3 months
Over 3 months up to and including 6 months	Over 3 months up to and including 6 months
Over 6 months up to and including 9 months	Over 6 months up to and including 9 months
Over 9 months up to and including 12 months	Over 9 months up to and including 12 months
Over 12 months up to and including 16 months	Over 12 months up to and including 16 months
Over 16 months up to and including 20 months	Over 16 months up to and including 20 months
Over 20 months—	Over 20 months—
Breeding bulls	Calved
Other	Not calved
<b>Dairy Sector – non-pedigree animal</b>	
Up to and including 3 months	Up to and including 3 months

<sup>(42)</sup> O.J. No. L 139, 30.04.04, p.55. The revised text of Regulation (EC) No. 843/2004 is now set out in a Corrigendum (O.J. No. L 226, 25.6.04, p.22).

<sup>(43)</sup> O.J. No. L 125, 12.05.1984, p.58.

<i>Categories</i>	
<i>Male</i>	<i>Female</i>
Over 3 months up to and including 6 months	Over 3 months up to and including 6 months
Over 6 months up to and including 12 months	Over 6 months up to and including 12 months
Over 12 months up to and including 16 months	Over 12 months up to and including 16 months
Over 16 months up to and including 20 months	Over 16 months up to and including 20 months
Over 20 months	Over 20 months– Calved Not calved
<b>Beef Sector – pedigree animal</b>	
6 months up to and including 12 months	6 months up to and including 12 months
Over 12 months up to and including 24 months	Over 12 months up to and including 24 months
Over 24 months	Over 24 months (not calved) Calved under 36 months Calved 36 months and over
<b>Dairy Sector – pedigree animal</b>	
Up to and including 2 months	Up to and including 2 months
Over 2 months up to and including 12 months	Over 2 months up to and including 10 months
Over 12 months up to and including 24 months	Over 10 months up to and including 18 months
Over 24 months	Over 18 months (not calved) Calved under 36 months Calved 36 months and over

### Exceptions

10.—(1) Where the Scottish Ministers consider that the data to calculate the average price is inadequate, they may pay compensation at—

- (a) for animals in that category, the most recent previously calculated average price for which there was sufficient data to calculate the average price; or
  - (b) for the individual animal, the market price.
- (2) For buffalo or bison, compensation is the market price.

(3) The market price is the price that might reasonably have been obtained for the individual animal from a purchaser in the open market at the time of valuation if the animal was not required to be killed under this Schedule, calculated in accordance with regulation 11 and any fee for nominating the valuer and the valuer's fee shall be payable by the Scottish Ministers.

## SCHEDULE 4

Regulation 5

### Control and eradication of TSE in sheep and goats

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### **Notification**

1.—(1) For the purposes of Article 11 of the Community TSE Regulation, any person who has possession or control of any sheep or goat suspected of having a TSE shall immediately notify the Scottish Ministers and retain it on the premises until it has been examined by a veterinary inspector.

(2) Any veterinary surgeon who examines or inspects any sheep or goat suspected of having a TSE shall, with all practical speed, notify the Scottish Ministers.

(3) Any person (other than the Scottish Ministers) who examines the body of any sheep or goat, or any part of it, in a laboratory and who reasonably suspects the presence of a TSE shall immediately notify the Scottish Ministers, and retain the body and any parts of it until a veterinary inspector has authorised disposal.

(4) Failure to comply with this paragraph is an offence.

### **Restriction of a notified animal**

2.—(1) When a sheep or goat is the subject of notification under paragraph 1, a veterinary inspector may, pending determination of whether or not it is suspected of having a TSE, serve a notice prohibiting the movement of the animal from its holding and the movement of any other sheep or goat on to or from that holding.

(2) Movements of restricted animals are only permitted in accordance with regulation 16.

### **Killing of a suspect animal**

3.—(1) For the purposes of paragraphs (1) and (2) of Article 12 of the Community TSE Regulation, if a veterinary inspector suspects that a sheep or goat has a TSE, the inspector shall—

- (a) cause the animal to be killed on the holding immediately;
- (b) serve a notice prohibiting the animal from being moved from the holding until it has been killed; or
- (c) serve a notice directing the owner to consign the animal to other premises for killing and prohibiting movement other than in accordance with that direction.

(2) In accordance with Article 12(3) of the Community TSE Regulation, if the animal is killed on the holding, it is an offence to remove the body from the holding except in accordance with a written direction from an inspector.

### **Movement restrictions**

4.—(1) For the purposes of point 3 of Annex VII to the Community TSE Regulation, and Article 12(1) of that Regulation, following suspicion of a TSE (whether in a live animal or through the monitoring under Annex III to the Community TSE Regulation), an inspector—

- (a) shall serve a notice—
  - (i) prohibiting the movement onto or from its holding of any sheep or goat on the same holding as the suspect animal if the inspector considers that the animal was exposed to a TSE on that holding; or

- (ii) if the suspect animal came from another holding, and the inspector considers that the suspect animal may have been exposed to a TSE on that other holding, the inspector may serve such a notice on that other holding and on the holding the animal was on when it became a suspect animal, or only on the other holding; and
  - (b) shall serve a notice prohibiting movement onto or from a holding where an animal specified in point 1(b) of Annex VII to the Community TSE Regulation is kept or where the inspector suspects such an animal is kept.
- (2) Movements of restricted animals are only permitted in accordance with regulation 16.

#### **Action where TSE is not confirmed**

5. If it is confirmed that the animal did not have a TSE, an inspector shall remove all restrictions imposed because of the suspect animal.

#### **Action following confirmation of TSE in sheep**

6.—(1) When it is confirmed that a suspect sheep or the body of a sheep monitored under Annex III to the Community TSE Regulation has a TSE the Scottish Ministers, after—

- (a) carrying out the inquiry specified in Article 13(1)(b) of the Community TSE Regulation and in point 1(b) of Annex VII to that Regulation; and
- (b) sampling the animals to establish their genotype (if this is necessary),

shall decide which of the options set out in points 2(b)(i) and (ii) of Annex VII to the Community TSE Regulation they intend to exercise.

(2) They shall then serve a notice on the occupier of the holding identifying which of the options in those paragraphs they intend to exercise.

(3) The notice shall specify—

- (a) the identity of the animals to be killed and destroyed;
- (b) the identity of any animals to be slaughtered for human consumption;
- (c) the identity of any animals that may be retained;
- (d) the identity of any ovum or embryo to be destroyed;
- (e) the time limit for complying with the notice; and
- (f) the right to apply for a derogation in accordance with paragraph 22(2).

(4) The appeals procedure in regulation 10 applies.

#### **Action following confirmation of TSE in goats**

7.—(1) If it is confirmed that a suspect goat, or a body of a goat monitored under Annex III to the Community TSE Regulation, has a TSE, the Scottish Ministers, after carrying out the inquiry specified in Article 13(1)(b) of that Regulation and in point 1(b) of Annex VII to that Regulation, shall serve on the occupier of the holding a notice of their intention to cause to be killed and destroyed all the goats on the holding and all embryos and ova from those animals in accordance with Article 13(1)(c) of, and point 2(b)(i) of Annex VII, to that Regulation.

(2) The appeals procedure in regulation 10 applies.

#### **Action following confirmation of BSE in sheep or goats**

8.—(1) If BSE is confirmed in a sheep or goat on a holding, the Scottish Ministers, after carrying out the inquiry specified in Article 13(1)(b) of the Community TSE Regulation and point 1 of Annex

VII to that Regulation, shall serve on the occupier of the holding a notice of their intention to cause to be killed and destroyed the animals, embryos and ova in accordance with Article 13(1)(c) of, and point 2(c) of Annex VII to, that Regulation.

(2) The appeals procedure in regulation 10 applies.

#### **Time for appeals**

9. The Scottish Ministers shall not cause to be killed any sheep or goat, or cause to be destroyed any ovum or embryo, under this Schedule until—

- (a) they have received written notification from the person on whom the notice is served that that person has no intention to proceed with an appeal; or
- (b) after the 21 day period for appeal under regulation 10 has expired; or
- (c) if there is an appeal, the appeal is determined or withdrawn.

#### **Killing and destruction following confirmation**

10.—(1) An inspector shall ensure that all the animals specified for killing in the notice in paragraphs 6(2), 7(1) or 8(1) are killed and that all the ova and embryos specified for destruction in the notice are destroyed.

(2) If an animal is not killed on the holding, an inspector shall direct the owner in writing to consign it to other premises for killing as specified in the direction.

(3) When an animal has been killed under this paragraph, it is an offence to remove the body from the premises on which it was killed except in accordance with a written direction from an inspector.

#### **Animals from another holding**

11. For the purposes of point 2(b)(iii) of Annex VII to the Community TSE Regulation, if the animal with a TSE was introduced from another holding, the Scottish Ministers may act in accordance with this Schedule in relation to the holding of origin in addition to, or instead of, the holding on which a TSE was confirmed.

#### **Common grazing**

12. In the case of animals with a TSE on common grazing, the Scottish Ministers may limit a notice under paragraphs 6(2) or 7(1) to an individual flock in accordance with point 2(b)(iii) of Annex VII to the Community TSE Regulation.

#### **Multiple flocks on a holding**

13. Where more than one flock is kept on a single holding, the Scottish Ministers may limit a notice under paragraphs 6(2) or 7(1) to an individual flock in accordance with point 2(b)(iii) of Annex VII to the Community TSE Regulation.

#### **Subsequent occupiers**

14. If there is a change in occupation of the holding, the previous occupier shall ensure that the subsequent occupier is made aware of the existence and contents of any notice served under this Schedule, and failure to do so shall be an offence.

### **Introduction of animals onto a holding**

15. Any person who introduces an animal onto a holding in contravention of point 4 of Annex VII to the Community TSE Regulation is guilty of an offence.

### **Use of ovine germinal products**

16. Any person who uses ovine germinal products in contravention of point 5 of Annex VII to the Community TSE Regulation is guilty of an offence.

### **Movement of animals from a holding**

17. Any person who moves an animal from a holding in contravention of point 7 of Annex VII to the Community TSE Regulation is guilty of an offence.

### **Period of movement restrictions**

18. For the purposes of point 8 of Annex VII to the Community TSE Regulation the relevant dates shall be established by the Scottish Ministers giving written notification of those dates to the occupier of the holding.

### **Death while under restriction**

19. If any animal aged 18 months or over dies or is killed otherwise than in accordance with Article 12(1) and (2) of the Community TSE Regulation while it is under restriction for any reason under this Schedule or Annex VII to the Community TSE Regulation, the owner shall immediately notify the Scottish Ministers, and retain the body on the premises until the owner is directed in writing to move or dispose of it by the Scottish Ministers, and it is an offence not to comply with this paragraph or to fail to comply with a direction under it.

### **Placing on the market of progeny of sheep or goats in which BSE is confirmed**

20. Any person who places on the market any sheep or goat in contravention of Article 15(2) of the Community TSE Regulation and Chapter B of Annex VIII to that Regulation is guilty of an offence.

### **Notification while the holding is under restriction**

21.—(1) For the purposes of point 8(d) of Annex VII to the Community TSE Regulation, for the period that the holding is under restriction in accordance with point 8 of that Annex, if the owner intends to consign a sheep aged 18 months or more for slaughter for human consumption, the owner shall notify the Scottish Ministers at least four weeks before consignment.

(2) The owner shall not consign a sheep aged 18 months or more for killing or slaughter for human consumption except in accordance with a written direction from the Scottish Ministers.

(3) Failure to comply with this paragraph is an offence.

### **Derogations**

22.—(1) The Scottish Ministers shall not exercise the option permitted under point 7(c) of Annex VII to the Community TSE Regulation.

(2) The occupier of a holding may apply to the Scottish Ministers asking them to permit before 1st January 2007 the introduction of non-pregnant ewe lambs of unknown genotype in accordance with paragraph 6 of that Annex VII.

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(3) Upon application by the occupier of a holding, the Scottish Ministers may allow the occupier to exercise one or both of the options permitted under point 9 of that Annex VII.

(4) An application under this paragraph shall be in writing and shall set out in full the reasons for the application.

(5) The Scottish Ministers shall give the applicant their decision in writing, which shall state that they—

- (a) consent to the application; or
- (b) consent in part to the application; or
- (c) refuse the application.

(6) Unless the Scottish Ministers consent to the application in full, the appeals procedure in regulation 10 applies.

### Compensation payable for animals killed as suspect animals

**23.**—(1) The Scottish Ministers shall pay compensation in accordance with this paragraph for a sheep or goat killed as a suspect animal.

(2) Where it is confirmed that the animal had a TSE, the compensation is—

- (a) £30 in the case of an animal at the end of its productive life; and
- (b) £90 in any other case.

(3) Where it is not confirmed that the animal had a TSE, the compensation is the higher of—

- (a) the amount that would have been payable under this paragraph if it had been confirmed the animal had a TSE; and
- (b) such sum as appears to the Scottish Ministers, having regard to any information provided by the owner of the animal and any other relevant information, to reflect the market value of the animal, subject to a maximum sum of £400 for each animal.

### Compensation for animals killed or products destroyed following confirmation

**24.** The Scottish Ministers shall pay compensation to the owner of animals killed and products destroyed under this Schedule following confirmation of a TSE in accordance with the following provisions of this paragraph—

#### Compensation

<i>Animal or product</i>	<i>Compensation (£) A</i>	<i>Compensation (£) B</i>
Male sheep or goat	90	90

(a) Where the Scottish Ministers have granted a derogation under point 9 of Annex VII to the Community TSE Regulation the compensation for a female sheep is £30 if it is killed after the first year of the derogation period.

(b) Where the Scottish Ministers have granted a derogation in accordance with that point in respect of any ram in a flock, the compensation for any lamb in that flock killed after the first year of the period of derogation is £25.

#### Note on the rates

- (a) The rate in Column A is payable if—
  - (i) the owner notified the Scottish Ministers that an animal was suspected of being affected by a TSE in accordance with paragraph 1 before 10th March 2006, and the presence of a TSE was confirmed (whether before or after that date); and
  - (ii) the animal for which compensation is being paid was in the flock or herd before 10th March 2006; and
- (b) the rate in Column B is payable in all other cases.

<i>Animal or product</i>	<i>Compensation (£) A</i>	<i>Compensation (£) B</i>
Female sheep <sup>(a)</sup> or goat	90	65
Lamb (under 12 months old) <sup>(b)</sup> or kid under (12 months old)	50	40
Embryo	150	150
Ovum	5	5

(a) Where the Scottish Ministers have granted a derogation under point 9 of Annex VII to the Community TSE Regulation the compensation for a female sheep is £30 if it is killed after the first year of the derogation period.

(b) Where the Scottish Ministers have granted a derogation in accordance with that point in respect of any ram in a flock, the compensation for any lamb in that flock killed after the first year of the period of derogation is £25.

**Note on the rates**

- (a) The rate in Column A is payable if—
- (i) the owner notified the Scottish Ministers that an animal was suspected of being affected by a TSE in accordance with paragraph 1 before 10th March 2006, and the presence of a TSE was confirmed (whether before or after that date); and
  - (ii) the animal for which compensation is being paid was in the flock or herd before 10th March 2006; and
- (b) the rate in Column B is payable in all other cases.
- 

## Valuations

**25.**—(1) If the owner of an animal considers the compensation in paragraph 24 to be unreasonable the owner may notify the Scottish Ministers, and the procedure in regulation 11 applies, with the owner paying the fee for nominating the valuer and the valuer's fee.

(2) If the Scottish Ministers consider the compensation in paragraph 24 to be excessive in all the circumstances they may obtain a valuation of the animal in accordance with regulation 11, with the Scottish Ministers paying the fee for nominating the valuer and the valuer's fee.

(3) The valuer shall value the animal at the market price.

(4) The market price for sheep and goats is the price that might reasonably have been obtained for the individual animal at the time of valuation from a buyer in the open market if the animal was not from a flock affected by TSE.

## SCHEDULE 5

Regulation 5

### Feedingstuffs

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## PART 1

### Restrictions on feeding proteins to animals

#### **Prohibition on feeding animal protein to ruminants**

1.—(1) For the purposes of Article 7 and point (b) of Part I of Annex IV to the Community TSE Regulation it is an offence to—

- (a) feed to any ruminant animal;
- (b) supply for feeding to any ruminant animal; or
- (c) permit any ruminant animal to have access to,

any animal protein (or anything containing animal protein) other than the proteins specified in point A(a) of Part II of Annex IV to that Regulation.

(2) It is an offence to bring onto any premises where ruminant animals are kept, or to possess on such premises, anything prohibited by this paragraph, other than—

- (a) food intended for human consumption;
- (b) in accordance with paragraph 3;
- (c) premises registered under paragraph 8(6), 10(5) or 12(8); or
- (d) where authorised by an inspector and suitable measures are in place to ensure that ruminant animals do not have access to it.

#### **Prohibition on feeding animal protein to non-ruminants**

2.—(1) For the purposes of Article 7(2) of, and point (a) of Part I of Annex IV to, the Community TSE Regulation it is an offence to—

- (a) feed to any pig, poultry, horse or any farmed non ruminant animal;
  - (b) supply for feeding to any such animal; or
  - (c) allow any such animal to have access to,
- anything in relation to which this paragraph applies.
- (2) Subject to sub paragraph (3), the prohibition in sub paragraph (1) applies in relation to–
- (a) processed animal protein;
  - (b) gelatine of ruminant origin;
  - (c) blood products;
  - (d) hydrolysed protein;
  - (e) dicalcium phosphate and tricalcium phosphate of animal origin; and
  - (f) petfood containing animal protein.
- (3) The prohibition in sub paragraph (1) does not apply in relation to–
- (a) the protein specified in point A(a) of Part II of Annex IV to the Community TSE Regulation;
  - (b) fishmeal (and feedingstuffs containing it) that has been produced, labelled, transported and stored in accordance with the conditions in point B of that Part;
  - (c) dicalcium phosphate and tricalcium phosphate (and feedingstuffs containing them) that have been produced, labelled, transported and stored in accordance with the conditions in point C of that Part;
  - (d) blood products derived from non ruminants (and feedingstuffs containing them) that have been produced, labelled, transported and stored in accordance with the conditions in point D of that Part;
  - (e) in the case of feeding to fish, blood meal derived from non ruminants (and feedingstuffs containing it) that has been produced, labelled, transported and stored in accordance with the conditions in point D of that Part; and
  - (f) tuber and root crops (and feedingstuffs containing such products) in which bone spicules have been detected if authorised by the Scottish Ministers following a risk assessment in accordance with point A(d) of that Part.
- (4) In this paragraph “protein” includes any feedingstuffs containing animal protein.
- (5) It is an offence to bring onto any premises where any animals specified in sub paragraph (1) are kept anything prohibited by this paragraph, or to possess it on such premises other than–
- (a) food intended for human consumption;
  - (b) in accordance with paragraph 3; or
  - (c) where authorised by an inspector and suitable measures are in place to ensure that animals specified in sub paragraph (1) do not have access to it.

### Exceptions

3. Paragraphs 1(2) and 2(5) do not apply to–
- (a) petfood for feeding to pets (including working dogs) on those premises;
  - (b) organic fertiliser or soil improver produced and used in accordance with Regulation (EC) No. 1774/2002 of the European Parliament and of the Council laying down health rules

concerning animal by products not intended for human consumption<sup>(44)</sup> and the Animal By Products (Scotland) Regulations 2003<sup>(45)</sup> and paragraph 18,

provided that—

- (i) it is not fed to any farmed animals;
- (ii) it is not stored or handled in parts of the premises—
  - (aa) to which farmed animals have access; or
  - (bb) where feedingstuffs for farmed animals are stored or handled;
- (iii) it does not come into contact with—
  - (aa) feedingstuffs permitted to be fed to farmed animals; or
  - (bb) handling equipment used in connection with any such feedingstuffs; and
- (iv) farmed animals do not have access to petfood at any time and do not have access to organic fertiliser or soil improver until it has been applied to the land and the no grazing period specified in regulation 11(1) of the Animal By Products (Scotland) Regulations 2003 has expired.

#### **Movement prohibitions and restrictions of animals**

4. Where an inspector has reasonable grounds to believe that a TSE susceptible animal has been fed or has had access to—

- (a) specified risk material;
- (b) any material which the inspector has reasonable grounds to believe carries the risk of TSE infectivity; or
- (c) animal protein for which the inspector cannot establish the origin or the TSE infectivity risk,

the inspector may serve a notice on the owner or person in charge of the animal prohibiting or restricting the movement of the animal from the premises described in the notice.

#### **Killing of animals**

5.—(1) Where an inspector has reasonable grounds to believe that a TSE susceptible animal has been fed or has had access to any material referred to in paragraph 4, the inspector may serve a notice on the owner or person in charge of the animal in accordance with this paragraph.

(2) The notice may either—

- (a) require the owner or person in charge of the animal to kill it and dispose of it as specified in the notice; or
- (b) require the owner or person in charge of the animal to keep it on such premises and in such manner as the notice provides, in which case the inspector shall ensure that the cattle passport of any bovine animal is stamped with the words “Not for human consumption”.

#### **Compensation**

6.—(1) Where an animal is killed under paragraph 5, the Scottish Ministers may pay compensation if they consider it appropriate in all the circumstances and shall give their decision on whether or not to pay compensation in writing.

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<sup>(44)</sup> O.J. No. L 273, 10.10.02, p.1 as last amended by Commission Regulation (EC) No. 209/2006 (O.J. No. L 36, 8.2.06, p.25).

<sup>(45)</sup> S.S.I. 2003/411, amended by S.S.I. 2006/3.

(2) The compensation is the market value of the animal at the time it is killed, established in accordance with the procedure in regulation 11, with the owner paying any fee for nominating the valuer and the valuer's fee.

(3) The appeals procedure in regulation 10 applies in relation to the decision of the Scottish Ministers.

### **Slaughter or sale for human consumption**

7. It is an offence to consign for slaughter for human consumption or to slaughter for human consumption any TSE susceptible animal the passport for which has been stamped under paragraph 5.

## **PART 2**

### **Production of protein and feedingstuffs**

#### **Fishmeal for feeding to non-ruminant farmed animals**

8.—(1) Any person producing fishmeal intended for feeding to non ruminant farmed animals shall do so in accordance with point B(a) of Part II of Annex IV to the Community TSE Regulation.

(2) Any person producing feedingstuffs containing fishmeal intended for feeding to non ruminant farmed animals shall do so—

- (a) in accordance with point B(c) of that Part, in premises authorised by the Scottish Ministers for the purposes of that point;
- (b) in accordance with point B(c)(i) of that Part, for home compounders registered by the Scottish Ministers for the purposes of that point; or
- (c) in accordance with point B(c) (ii) of that Part, in premises authorised by the Scottish Ministers for the purposes of that point.

(3) Any person packaging the feedingstuffs shall label them in accordance with point B(d) of that Part, and any documentation accompanying the feedingstuffs shall be in accordance with that point.

(4) Any person transporting the feedingstuffs in bulk shall do so in accordance with the first sentence of point B(e) of that Part.

(5) Any person using a vehicle previously used to transport such feedingstuffs to transport feedingstuffs for ruminants shall comply with the second sentence of point B(e) of that Part.

(6) The occupier of any farm where ruminants are kept shall comply with the first paragraph of point B(f) of that Part unless the Scottish Ministers are satisfied that the provisions of the second paragraph of that point are complied with and have registered the farm under that paragraph.

#### **Offences relating to fishmeal and feedingstuffs containing fishmeal**

9.—(1) Failure to comply with paragraph 8 is an offence.

(2) It is an offence for a home compounder registered under paragraph 8(2)(b) to—

- (a) keep ruminant animals;
- (b) consign feedingstuffs containing fishmeal (whether complete or partly complete) produced by the home compounder from the home compounder's holding; or
- (c) use feedingstuffs containing fishmeal with a crude protein content of 50% or more in the production of complete feedingstuffs.

(3) It is an offence for any person producing feedingstuffs in accordance with point B(c)(ii) of Part II of Annex IV to the Community TSE Regulation to—

- (a) fail to ensure that feedingstuffs destined for ruminants are kept in separate facilities in accordance with the first indent of that point;
- (b) fail to ensure that feedingstuffs destined for ruminants are manufactured in accordance with the second indent; or
- (c) fail to make and keep a record in accordance with the third indent.

### **Feedingstuffs containing dicalcium phosphate or tricalcium phosphate for feeding to non ruminant farmed animals**

**10.**—(1) Any person producing feedingstuffs containing dicalcium phosphate or tricalcium phosphate for feeding to non ruminant farmed animals shall do so—

- (a) in accordance with point C(a) of Part II of Annex IV to the Community TSE Regulation, in an establishment authorised by the Scottish Ministers for the purposes of that point;
- (b) in accordance with point C(a)(i) of that Part, for home compounders registered by the Scottish Ministers for the purposes of that point; or
- (c) in accordance with point C(a)(ii) of that Part in an establishment authorised by the Scottish Ministers for the purposes of that point.

(2) Any person packaging the feedingstuffs shall label them in accordance with point C(b) of that Part, and any documentation accompanying the feedingstuffs shall be in accordance with that point.

(3) Any person transporting those feedingstuffs in bulk shall do so in accordance with the first sentence of point C(c) of that Part.

(4) Any person using a vehicle previously used to transport such feedingstuffs to transport feedingstuffs for ruminants shall comply with the second sentence of point C(c) of that Part.

(5) The occupier of any farm where ruminants are kept shall comply with the first paragraph of point C(d) of that Part unless the Scottish Ministers are satisfied that the provisions of the second paragraph of that point are complied with and have registered the farm under that paragraph.

### **Offences relating to feedingstuffs containing dicalcium phosphate or tricalcium phosphate for feeding to non-ruminant animals**

**11.**—(1) Failure to comply with paragraph 10 is an offence.

(2) It is an offence for a home compounder registered under paragraph 10(1)(b) to—

- (a) keep ruminant animals;
- (b) consign feedingstuffs containing dicalcium phosphate or tricalcium phosphate (whether complete or partly complete) from the home compounder's holding; or
- (c) use feedingstuffs containing dicalcium phosphate or tricalcium phosphate with a phosphorus content of 10% or more in the production of complete feedingstuffs.

(3) It is an offence for any person producing feedingstuffs in accordance with point C(a)(ii) of Part II of Annex IV to the Community TSE Regulation to—

- (a) fail to ensure that feedingstuffs destined for ruminants are manufactured in accordance with the first indent of that point;
- (b) fail to ensure that they are kept in separate facilities in accordance with the second indent; or
- (c) fail to make and keep a record in accordance with the third indent.

## **Blood products and blood meal**

12.—(1) Any person who produces—

- (a) blood products, or feedingstuffs containing blood products, intended for feeding to non-ruminant farmed animals; or
- (b) blood meal, or feedingstuffs containing blood meal, intended for feeding to fish,

shall ensure that the blood comes from a slaughterhouse that is registered with the Scottish Ministers for the purposes of point D(a) of Part II of Annex IV to the Community TSE Regulation and that either—

- (i) is not used to slaughter ruminants; or
- (ii) has in place a control system in accordance with the second paragraph of point D(a) of that Part to ensure that ruminant blood is kept separate from non ruminant blood, and has been authorised for the purpose by the Scottish Ministers.

(2) The occupier of the slaughterhouse shall consign the blood in accordance with point D(a) of Part II of Annex IV to the Community TSE Regulation, and any transporter shall transport it in accordance with that point.

(3) Any person producing blood products or blood meal shall do so in accordance with either the first or the second paragraph of point D(b) of that Part.

(4) Any person producing feedingstuffs containing blood products or blood meal shall do so—

- (a) in accordance with point D(c) of that Part, in an establishment authorised by the Scottish Ministers for the purposes of that point;
- (b) in accordance with point D(c)(i) of that Part, for home compounders registered by the Scottish Ministers for the purposes of that point; or
- (c) in accordance with point D(c)(ii) of that Part, in an establishment authorised by the Scottish Ministers for the purposes of that point.

(5) Any person packaging the feedingstuffs shall label them in accordance with point D(d) of that Part, and any documentation accompanying the feedingstuffs shall be in accordance with that point.

(6) Any person transporting the feedingstuffs in bulk shall do so in accordance with the first sentence of point D(e) of that Part.

(7) Any person using a vehicle previously used to transport such feedingstuffs to transport feedingstuffs for ruminants shall comply with the second sentence of point D(e) of that Part.

(8) The occupier of any farm where ruminants are kept shall comply with the first paragraph of point D(f) of that Part unless the Scottish Ministers are satisfied that the provisions of the second paragraph of that point are complied with and have registered the farm under that paragraph.

## **Offences relating to feedingstuffs containing blood products or blood meal**

13.—(1) Failure to comply with paragraph 12 is an offence.

(2) It is an offence for any person collecting blood in accordance with the second paragraph of point D(a) of Part II of Annex IV to the Community TSE Regulation to fail to—

- (a) slaughter animals in accordance with the first indent of that paragraph;
- (b) collect, store, transport or package blood in accordance with the second indent of that paragraph; or
- (c) regularly sample and analyse blood in accordance with the third indent of that paragraph.

(3) It is an offence for any person producing blood products or blood meal in accordance with the second paragraph of point D(b) of that Part to fail to—

- (a) ensure that the blood is processed in accordance with the first indent of that paragraph;
  - (b) keep raw material and finished product in accordance with the second indent of that paragraph; or
  - (c) sample in accordance with the third indent of that paragraph.
- (4) It is an offence for any person producing feedingstuffs in accordance with point D(c)(ii) of Part II of Annex IV to the Community TSE Regulation to—
- (a) fail to ensure that feedingstuffs are manufactured in accordance with the first indent of that point;
  - (b) fail to ensure that they are kept in separate facilities in accordance with the second indent; or
  - (c) fail to make and keep a record in accordance with the third indent.
- (5) It is an offence for a home compounder registered under paragraph 12(4)(b) to—
- (a) keep ruminant animals where blood products are used;
  - (b) keep animals other than fish where blood meal is used;
  - (c) consign feedingstuffs containing blood products or blood meal (whether complete or partly complete) from the home compounder's holding; or
  - (d) use feedingstuffs containing blood products or blood meal with a total protein content of 50% or more in the production of complete feedingstuffs.

#### **Change in use of equipment**

**14.** It is an offence to use equipment used to produce feedingstuffs for non ruminant animals under paragraph 8, 10 or 12, for the production of feedingstuffs for ruminant animals, unless authorised in writing by an inspector.

#### **Conditions applying to the storage and transport of bulk quantities of protein products and feedingstuffs containing such proteins**

- 15.—**(1) It is an offence to store or transport—
- (a) bulk processed animal protein (other than fishmeal); or
  - (b) bulk products, including feedingstuffs, organic fertilisers, and soil improvers containing such proteins,

except in accordance with point C(a) of Part III of Annex IV to the Community TSE Regulation.

(2) It is an offence to store or transport bulk fishmeal, bulk dicalcium phosphate, bulk tricalcium phosphate, blood products derived from non ruminants or blood meal derived from non ruminants, except in accordance with points C(b) and C(c) of Part III of Annex IV to the Community TSE Regulation.

(3) In addition to the requirements of sub paragraphs (1) and (2), it is an offence to transport bulk processed animal protein or any of the materials specified in sub paragraph (2) unless the transporter is registered with the Scottish Ministers for that purpose.

#### **Conditions applying to the manufacture and transport of petfood or feedingstuffs**

**16.—**(1) It is an offence to manufacture, store, transport or package feedingstuffs, including petfood, that contain blood products of ruminant origin or processed animal protein, other than fishmeal, except in accordance with point D of Part III of Annex IV to the Community TSE Regulation.

(2) It is an offence to manufacture or transport petfood containing dicalcium or tricalcium phosphate or blood products of non ruminant origin except in accordance with point D of that Part.

### **Export of processed animal protein to third countries**

**17.**—(1) In accordance with point E(1) of Part III of Annex IV to the Community TSE Regulation it is an offence to export processed animal proteins derived from ruminants, and anything containing such proteins.

(2) It is an offence to export processed animal proteins derived from non ruminants (and anything containing such proteins) except in accordance with point E(2) of that Part and an agreement in writing between the United Kingdom and the competent authority of the third country.

### **Fertilisers**

**18.**—(1) It is an offence to sell or supply for use as a fertiliser on agricultural land, or to possess with the intention of such sale or supply, any—

- (a) mammalian protein (other than ash) derived from animal by products classified as Category 2 material in Regulation (EC) No. 1774/2002; or
- (b) ash derived from the incineration of animal by products classified as Category 1 material in that Regulation.

(2) It is an offence to use anything prohibited in sub paragraph (1) on agricultural land as a fertiliser.

(3) In this paragraph—

- (a) “agricultural land” means land used or capable of use for the purposes of a trade or business in connection with agriculture; and
- (b) “agriculture” includes fruit growing, seed growing, dairy farming and livestock breeding and keeping, the use of land as grazing land, meadow land, osier land, the use of land for woodland, and horticulture (except the propagation of plants and the growing of plants within greenhouses, glass structures or plastic structures).

### **Record keeping for transport etc. of reject petfood**

**19.**—(1) Any person who supplies, transports or receives any petfood containing animal protein that is not intended for use as petfood shall—

- (a) record—
  - (i) the name of the manufacturer;
  - (ii) the date of supply and receipt;
  - (iii) the premises of origin and destination;
  - (iv) the quantity of petfood; and
  - (v) the nature of the animal protein contained in the petfood; and
- (b) keep those records for 2 years.

(2) The consignor shall ensure that the petfood is labelled with the information referred to in sub paragraph (1) or is accompanied by documentation that contains that information.

(3) Any person who fails to comply with this paragraph is guilty of an offence.

### **Cross-contamination of materials originating from premises where processed animal proteins (except fishmeal) are in use**

**20.** It is an offence to supply an ingredient of a feedingstuff if that ingredient is produced on premises where any processed animal protein (except fishmeal) is used in any manufacturing process unless the label or accompanying documentation indicates this.

### **Registration of home compounders and transporters**

**21.—(1)** The Scottish Ministers shall register home compounders and transporters under this Schedule if they are satisfied that the provisions of the Community TSE Regulation and these Regulations will be complied with.

(2) The registration shall be in writing, and shall specify—

- (a) the name of the home compounder or transporter;
- (b) the address of their premises; and
- (c) the purpose for which it is granted.

(3) It may be made subject to such conditions as are necessary to—

- (a) ensure that the provisions of the Community TSE Regulation and these Regulations will be complied with; and
- (b) protect public or animal health.

(4) If the Scottish Ministers refuse to register a home compounder or transporter or grant registration subject to conditions—

- (a) they shall—
  - (i) give their reasons in writing; and
  - (ii) explain the right of the applicant to make written representations to a person appointed by the Scottish Ministers; and
- (b) the appeals procedure in regulation 10 applies.

### **Duties of home compounders and transporters**

**22.** Any home compounder or transporter registered under this Schedule who fails to ensure that—

- (a) any condition of the registration; and
- (b) the requirements of the Community TSE Regulation and these Regulations,

are complied with is guilty of an offence.

### **Suspension and amendment of registration of home compounders and transporters**

**23.—(1)** The Scottish Ministers may suspend or amend any registration granted under this Schedule if—

- (a) any of the conditions under which it was granted is not fulfilled; or
- (b) they are satisfied that the provisions of the Community TSE Regulation or these Regulations are not being complied with.

(2) A suspension or amendment—

- (a) shall have immediate effect if the Scottish Ministers consider it necessary for the protection of public or animal health; and
- (b) otherwise, shall not have effect for at least 21 days from notification of the suspension or amendment.

- (3) Notification of the suspension or amendment shall—
- (a) be in writing;
  - (b) state when it comes into effect;
  - (c) give the reasons; and
  - (d) explain the right of the person who has been notified to make written representations to a person appointed by the Scottish Ministers.
- (4) The appeals procedure in regulation 10 applies.
- (5) If the suspension or amendment does not have immediate effect and representations are made under regulation 10, the suspension or amendment shall not have effect until the final determination of the appeal by the Scottish Ministers unless they consider that it is necessary for the protection of public or animal health for the suspension or amendment to have effect before then.

### **Revocation of registration of home compounders and transporters**

**24.**—(1) The Scottish Ministers may revoke any registration of a home compounder or transporter granted under this Schedule if they are not satisfied that the Community TSE Regulation or these Regulations will be complied and if—

- (a) the registration is currently suspended and the period for appeal under regulation 10 has expired or they have upheld the suspension following such appeal;
- (b) they have previously suspended it and there is further non compliance with the Community TSE Regulation or these Regulations; or
- (c) they are satisfied that the transporter or home compounder no longer requires to be registered for the purpose for which registration was granted.

(2) If the Scottish Ministers make a revocation under paragraph (1)(b) or (c) the appeals procedure in regulation 10 applies but the revocation remains in force during that appeals procedure.

### **Savings**

**25.** Any registration of premises for the production of feedingstuffs containing dicalcium phosphate for feeding to farmed animals other than ruminants granted under regulation 24(3) of the TSE (Scotland) Regulations 2002<sup>(46)</sup> and in force immediately before the coming into force of these Regulations shall have effect as if it was an authorisation to use an establishment for the production of feedingstuffs containing dicalcium phosphate granted under paragraph 10(1)(a) or (c) of this Schedule.

## SCHEDULE 6

Regulation 5

Specified risk material, mechanically recovered meat and slaughtering techniques

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<sup>(46)</sup> S.S.I. 2002/255, relevant amending instrument is S.S.I. 2005/469.

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### **Functions of the Food Standards Agency**

1.—(1) Except in relation to butcher shops, the Food Standards Agency shall carry out the duties of the member State set out in point 12 of Part A of Annex XI to the Community TSE Regulation in relation to this Schedule, and shall grant authorisations for the purposes of point 10(a) of that Part.

(2) The Food Standards Agency may appoint as inspectors such persons (whether or not officers of the Agency) as they consider necessary for the purpose of enforcing Annex XI to the Community TSE Regulation and this Schedule within a slaughterhouse or cutting plant.

(3) An appointment as an inspector may be limited to powers and duties specified in the appointment.

(4) An inspector appointed in accordance with paragraph (2) shall have the powers set out in regulations 13, 14, 15 and 16 and regulations 13(2) and (3), 14(2) and (3), 15(4) to (7) and 16(2) shall apply accordingly, and references to “the Scottish Ministers” or the “local authority” shall be construed as references to the Food Standards Agency.

### **Local authorities' duties with regards to butcher shops**

2. Local authorities shall carry out the duties of the member State set out in point 12 of Part A of Annex XI to the Community TSE Regulation in relation to this Schedule in so far as it relates to the removal in butcher shops of those parts of the vertebral column of bovine animals that are specified risk material and shall grant authorisations and effect registrations for the purposes of point 10(b) of that Part.

### **Training**

3.—(1) The occupier of any slaughterhouse, cutting plant or butcher shop where specified risk material is removed shall—

- (a) ensure that staff receive any training necessary to ensure that the occupier complies with duties contained in this Schedule; and
- (b) keep records of each person’s training for as long as that person works there.

(2) Failure to comply with any requirement of this paragraph is an offence.

### **Mechanically recovered meat**

4.—(1) Any person who fails to comply with point 3 of Part A of Annex XI to the Community TSE Regulation (use of bovine, ovine and caprine bones for the production of mechanically recovered meat) is guilty of an offence.

(2) Any person who uses any mechanically recovered meat produced in contravention of that point in the preparation of any food for sale for human consumption or of any feedingstuff is guilty of an offence.

(3) In this paragraph, “mechanically recovered meat” means the product derived from residual meat on animal bones by mechanical means (other than meat produced using hand held powered knives that do not use powered pressure or suction).

### **Pithing**

5. Any person who fails to comply with point 4 of Part A of Annex XI to the Community TSE Regulation (pithing) is guilty of an offence.

### **Tongue harvesting**

6. Any person who fails to comply with point 6 of Part A of Annex XI to the Community TSE Regulation (tongue harvesting) is guilty of an offence.

### **Head meat harvesting**

7. Any person who fails to comply with point 7 of Part A of Annex XI to the Community TSE Regulation (head meat harvesting) is guilty of an offence.

### **Removal of specified risk material**

8.—(1) Any person who removes specified risk material in any premises other than premises in which that specified risk material may be removed under point 5, point 10(a) or point 10(b) of Part A of Annex XI to the Community TSE Regulation is guilty of an offence.

(2) In the case of a cutting plant, it is an offence to remove—

(ii) where the carcase containing the specified risk material has been brought into Scotland from another member State, any part of the vertebral column that is specified risk material from any bovine animal aged 30 months or less at slaughter,

unless the plant is authorised under paragraph 13(1)(a); or

(b) the spinal cord from any sheep or goat aged over 12 months at slaughter or which has a permanent incisor erupted through the gum, unless the plant is authorised for the purpose of such removal under paragraph 13(1)(b).

(3) In the case of a butcher shop, it is an offence to remove any part of the vertebral column that is specified risk material from a bovine animal, if the shop is not authorised and registered for that purpose under paragraph 14, or the carcase containing the specified risk material has been brought into Scotland from another member State.

### **Bovine animals in a slaughterhouse**

9.—(1) When a bovine animal is slaughtered, the occupier of the slaughterhouse shall remove all specified risk material (other than those parts of the vertebral column that are specified risk material) as soon as is reasonably practicable after slaughter and in any event before post mortem inspection.

(2) The occupier of the slaughterhouse shall consign any carcase containing those parts of the vertebral column that are specified risk material as soon as is reasonably practicable—

(a) in the case of any bovine animal that is aged over 30 months at slaughter, to a cutting plant authorised under paragraph 13(1)(a) or to another member State in accordance with the second paragraph of point 13 of Part A of Annex XI to the Community TSE Regulation; and

(b) in the case of any bovine animal that is aged 30 months or less at slaughter, to a cutting plant, or a butcher shop authorised and registered under paragraph 14 or another member State in accordance with the second paragraph of point 13 of Part A of Annex XI to the Community TSE Regulation.

(3) The occupier of the slaughterhouse shall identify a carcase of a bovine animal containing vertebral column that is not specified risk material in accordance with point 14(a) of Part A of Annex XI to the Community TSE Regulation and provide information in accordance with point 14(b) of that Part.

(4) No person shall include a blue stripe in the label referred to in Article 13 of Regulation (EC) No. 1760/2000 of the European Parliament and of the Council establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products

and repealing Council Regulation (EC) No. 820/97(47) except in accordance with point 14(a) of Part A of Annex XI to the Community TSE Regulation.

(5) Any person who fails to comply with any requirement of this paragraph commits an offence.

### **Sheep and goats in a slaughterhouse**

**10.**—(1) When a sheep or goat is slaughtered, the occupier of a slaughterhouse shall remove all specified risk material (other than the spinal cord) as soon as is reasonably practicable after slaughter and in any event before post mortem inspection.

(2) Subject to sub-paragraph (3), in the case of a sheep or goat aged over 12 months at slaughter, or which has a permanent incisor erupted through the gum, the occupier of the slaughterhouse shall as soon as is reasonably practicable after slaughter—

- (a) remove the spinal cord at the slaughterhouse before the post mortem inspection; or
- (b) send the carcase to a cutting plant authorised under paragraph 13(1)(b) for removal of the spinal cord.

(3) An occupier of a slaughterhouse may, instead of complying without paragraph (2), but only where the Food Standards Agency has entered into a written agreement with the competent authority of another member State, send the carcase to a cutting plant in that member State providing that the dispatch is in accordance with that agreement and with the first paragraph of point 13 of Part A of Annex XI to the Community TSE Regulation, and any notice issued by an inspector under sub-paragraph (5).

(4) In sub paragraph (3), “cutting plant” means premises—

- (a) approved or conditionally approved as such by the Competent Authority of the member State to which the meat has been sent under Article 31(2) of Regulation (EC) No. 882/2004 of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules(48); or
- (b) operating as such under Article 4(5) of Regulation (EC) No. 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin(49) pending such approval.

(5) An inspector appointed in accordance with paragraph 1(2) of this Schedule may serve a notice to the occupier of a slaughter-house for the proper dispatch of any carcase to a cutting premises in another member State in accordance with this paragraph.

(6) Any person who fails to comply with any requirement of this paragraph commits an offence.

### **Young lamb and goat stamps**

**11.**—(1) In this regulation “young goat stamp” and “young lamb stamp” mean the stamps described in paragraph (3) in relation to goats and sheep respectively.

(2) An inspector appointed in accordance with paragraph 1(2) of this Schedule may stamp a sheep or goat in a slaughterhouse with a young lamb stamp or a young goat stamp if the animal does

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(47) O.J. No. L 204, 11.8.00, p.1, as last amended by the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded (O.J. No. L 236, 23.9.03, p.33).

(48) O.J. No. L 165, 30.4.04, p.1. The revised text of Regulation (EC) No. 882/2004 is now set out in Corrigendum (O.J. No. L 191, 28.5.04, p.1).

(49) O.J. No. L 139, 30.4.04, p.55. The revised text of Regulation (EC) No. 853/2004 is now set out in a Corrigendum (O.J. No. L 226, 25.6.04, p.22).

not have a permanent incisor erupted through the gum and the documentation, if any, relating to the animal does not indicate that it is aged over 12 months at slaughter.

(3) The stamp shall mark the carcass with a circular mark 5 centimetres in diameter with the following in capital letters 1 centimetre high—

- (a) “MHS”; and
- (b) in the case of a sheep, “YL”; or
- (c) in the case of a goat, “YG”.

(4) It is an offence for any person other than an inspector to apply the stamp or a mark resembling the stamp, or to possess equipment for applying it.

### **Removal of spinal cord from sheep and goats**

**12.** Any person who removes the spinal cord or any part of it from a sheep or goat aged over 12 months at slaughter or that had one or more permanent incisors erupted through the gum (other than for the purposes of veterinary or scientific examination) except by—

- (a) longitudinally splitting the whole vertebral column; or
- (b) removing a longitudinal section of the whole vertebral column including the spinal cord;

is guilty of an offence.

### **Authorisation of cutting plants by the Food Standards Agency**

**13.—**(1) The Food Standards Agency may authorise a cutting plant to remove—

- (a) those parts of the vertebral column that are specified risk material from bovine animals aged over 30 months at slaughter; or
- (b) spinal cord from sheep and goats aged over 12 months at slaughter or which have a permanent incisor erupted through the gum,

if the Agency is satisfied that the provisions of Part A of Annex XI to the Community TSE Regulation and this Schedule will be complied with.

(2) Regulations 6, 8, 9, and 10 apply to authorisations under this paragraph as they apply to approvals, authorisations, licences or registrations under those Regulations, but all references to the Scottish Ministers shall be construed as references to the Agency.

### **Authorisation and registration of butcher shops by local authorities**

**14.—**(1) A local authority may authorise a butcher shop to be used to remove those parts of the vertebral column that are specified risk material from bovine animals aged 30 months or less at slaughter and register the shop for that purpose, if the authority is satisfied that the provisions of Part A of Annex XI to the Community TSE Regulation and this Schedule will be complied with.

(2) The procedures in regulations 6, 8 and 9, apply, but all references to the Scottish Ministers shall be construed as references to the local authority concerned.

(i) Where in respect of any butcher shop the local authority has given notice of a decision under this regulation—

- (a) to refuse to grant authorisation and registration;
- (b) to grant authorisation and registration subject to any conditions;
- (c) to suspend authorisation and registration; or
- (d) to revoke authorisation and registration,

the occupier may, within one month from the date of that notice, appeal against the decision to the sheriff.

- (ii) an appeal to the sheriff under sub-paragraph (3)(i) shall be made by way of summary application;
- (iii) where on appeal under this paragraph the sheriff determines that the decision of the local authority is incorrect, the authority shall give effect to that determination.

#### **Removal of specified risk material at a cutting plant authorised under paragraph 13(1)**

15.—(1) The occupier of a cutting plant authorised under paragraph 13(1) shall ensure that, as soon as is reasonably practicable after a carcase arrives at the plant, and in any event before it leaves the plant—

- (a) all specified risk material of a kind to which the authorisation relates; and
- (b) where the carcase is derived from a bovine animal aged 30 months or less at slaughter, those parts of the vertebral column that are specified risk material

are removed from the carcase and failure to do so is an offence.

(2) In sub-paragraph (1)(b), “carcase” means—

- (a) a carcase;
- (b) a half carcase;
- (c) a half carcase cut into no more than three wholesale cuts; and
- (d) quarters,

containing no specified risk material other than vertebral column.

#### **Removal of bovine vertebral column that is specified risk material at a cutting plant not authorised under paragraph 13(1)(a)**

16.—(1) In the case of a carcase derived from a bovine animal aged 30 months or less at slaughter that has not been brought into Scotland from another member State, the occupier of a cutting plant not authorised under paragraph 13(1)(a) shall ensure that those parts of the vertebral column that are specified risk material are removed from the carcase as soon as reasonably practicable, and in any event before the carcase leaves the premises.

(2) Any person who fails to comply with of this paragraph commits an offence.

#### **Removal of bovine vertebral column that is specified risk material at a butcher shop authorised and registered under paragraph 14**

17.—(1) In the case of a carcase derived from a bovine animal aged 30 months or less at slaughter that has not been brought into Scotland from another member State, the occupier of a butcher shop authorised and registered under paragraph 14 shall ensure that those parts of the vertebral column that are specified risk material are removed before the carcase leaves the premises.

(2) Any person who fails to comply with this paragraph commits an offence.

#### **Carcases from another member State**

18.—(1) For the purposes of point 13 of Part A of Annex XI to the Community TSE Regulation, where a carcase containing those parts of the vertebral column of a bovine animal that are specified risk material is brought into Scotland from another member State, the importer shall send it directly to a cutting plant authorised under paragraph 13(1)(a).

- (2) Any person who fails to comply with this paragraph commits an offence.

### **Staining and disposal of specified risk material**

**19.**—(1) The occupier of any premises where specified risk material is removed who fails to comply with point 11 of Part A of Annex XI to the Community TSE Regulation (staining and disposal of specified risk material) is guilty of an offence.

- (2) For the purposes of that point—

- (a) staining means treating the material (whether by immersion, spraying or other application) with—

- (i) a 0.5% weight/volume solution of the colouring agent Patent Blue V (E131, 1971 Colour Index No. 42051(50)); or  
(ii) such other colouring agent as may be approved in writing by the Scottish Ministers or the Food Standards Agency; and

- (b) the stain shall be applied in such a way that the colouring is and remains clearly visible—

- (i) over the whole of the cut surface and the majority of the head in the case of the head of a sheep or goat; and  
(ii) in the case of all other specified risk material, over the whole surface of the material.

(3) This paragraph does not apply in relation to any specified risk material which is destined for use as provided in Article 1(2)(b) and (c) of the Community TSE Regulation.

### **Scheme animals**

**20.**—(1) After the specified risk material has been removed from a bovine animal slaughtered for the purposes of Commission Regulation (EC) No. 716/96 adopting exceptional support measures for the beef market in the United Kingdom(51), the remainder (excluding the hide) shall immediately be stained in accordance with paragraph 19 in such a way that the colouring is and remains clearly visible over the whole surface of the material.

- (2) Any person who fails to comply with this paragraph commits an offence.

### **Security of specified risk material**

**21.**—(1) Pending consignment or disposal from the premises on which it was removed, the occupier of the premises shall ensure that specified risk material is adequately separated from any food, feedingstuff or cosmetic, pharmaceutical or medical product and held in an impervious covered container that is labelled as either—

- (a) containing specified risk material; or  
(b) Category 1 animal by products and including the words “For disposal only”.

(2) The occupier shall ensure that the container is thoroughly washed as soon as reasonably practicable each time that it is emptied, and disinfected before use for any other purpose.

- (3) Any person who fails to comply with any requirement of this paragraph commits an offence.

### **Prohibition on the supply of specified risk material for human consumption**

**22.** It is an offence for any person to sell or supply—

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(50) Colour Index is published by the Society of Dyers and Colourists at Perkin House, 82 Grattan Road, Bradford, West Yorkshire BD1 2JB.

(51) O.J. No. L 99, 20.4.96, p.14, as last amended by Commission Regulation (EC) No. 2109/2005 (O.J. No. L 337, 22.12.05, p.25).

- (a) any specified risk material, or any food containing specified risk material, for human consumption; or
- (b) any specified risk material for use in the preparation of any food for human consumption.

### Savings

**23.**—(1) Any appointment of an inspector under the 2002 Regulations in force immediately before the coming into force of these Regulations shall have effect as if it was an appointment of that person as an inspector under paragraph 1(2) of this Schedule.

(2) Any licence issued under regulations 55 or 55A of the 2002 Regulations and in force immediately before the coming into force of these Regulations, shall have effect as if it was an authorisation issued to a cutting plant or (as the case may be) butcher shop under paragraph 13 or 14 of this Schedule.

(3) For the purposes of this Schedule, any notice or direction served or sample procured under the 2002 Regulations is deemed to have been served or procured under this Schedule.

(4) In this paragraph “the 2002 Regulations” means the TSE (Scotland) Regulations 2002<sup>(52)</sup>.

## SCHEDULE 7

Regulation 5

### Restrictions on dispatch to other member States and to third countries

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### Restrictions on dispatch to other member States and to third countries

**1.** It is an offence for any person to dispatch, or offer to dispatch, to other member States or to third countries—

- (a) bovine animals born or reared in the United Kingdom before 1st August 1996;
- (b) meat or products derived from bovine animals born or reared in the United Kingdom after 31st July 1996 and slaughtered before 15th June 2005; or
- (c) vertebral column from bovine animals born or reared in the United Kingdom after 31st July 1996 and slaughtered before 2nd May 2006 and products derived from such vertebral column.

### Exports to third countries

**2.** In accordance with the last paragraph of point 13 of Part A of Annex XI to the Community TSE Regulation, it is an offence to export heads or fresh meat of bovine, ovine or caprine animals containing specified risk material to a third country.

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(52) S.S.I. 2002/255 as relevantly amended by S.S.I. 2003/411, 2006/3 and 2006/231.

## SCHEDULE 8

Regulation 21

### Miscellaneous Amendments

#### *The Animal By-Products (Scotland) Regulations 2003*

1. In the definition of “inspector” in regulation 2 of the Animal By-Products (Scotland) Regulations 2003(**53**), for “and” substitute “or”.

#### *The Feeding Stuffs (Scotland) Regulations 2005*

- 2.—(1) The Feedingstuffs (Scotland) Regulations 2005(**54**) are amended as follows.
- (2) In regulation 2, for the definition of “mammalian meat and bone meal” substitute—
- ““mammalian meat and bone meal” means—
- (a) any mammalian protein (including greaves) derived from the whole or part or any part of any dead mammal by—
- (i) the process of rendering; or
- (ii) in the case of a product originating outside of Scotland, by an equivalent process; or
- (b) any material derived from mammalian protein,
- and for this purpose “protein” means any proteinaceous material which is derived from a carcase but does not include milk or any milk product;”.
- (3) In regulation 2, for the definition of “processed animal protein” substitute—
- ““processed animal protein” means meat and bone meal, meat meal, bone meal, blood meal, dried plasma and other blood products, hydrolysed protein, hoof meal, horn meal, poultry offal meal, feather meal, dry greaves, fishmeal, dicalcium phosphate, gelatine and any other similar products, and includes mixtures, feedingstuffs, feed additives and premixtures, containing these products; but does not include mammalian meat and bone meal;”.

#### *The Official Feed and Food Controls (Scotland) Regulations 2005*

3. The Official Feed and Food Controls (Scotland) Regulations 2005(**55**) are amended as follows.
4. In regulation 2(1), in the paragraph defining Community legislation, after “Directive 2004/41,” insert “Regulation 999/2001”;
5. In Schedule 1, after the definition of “Directive 2004/41” insert—
- ““Regulation 999/2001” means Regulation (EC) No 999/2001 of the European Parliament and of the Council laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies(**56**) as amended by, and as read with, the instruments set out in Schedule 1 to the Transmissible Spongiform Encephalopathies (Scotland) Regulations 2006.”.
6. In paragraph (a) of Schedule 3—
- (a) after sub paragraph (vi) omit “and”; and
- (b) at the end of paragraph (vii) insert—

(53) S.S.I. 2003/411, amended by S.S.I. 2006/3.

(54) S.S.I. 2005/605, amended by S.S.I. 2006/16.

(55) S.S.I. 2005/616, amended by S.S.I. 2006/3.

(56) O.J. No. L 147, 31.5.01, p.1.

“(viii) Schedule 2 to the Transmissible Spongiform Encephalopathies (Scotland) Regulations 2006 in so far as that Schedule applies in relation to animals slaughtered for human consumption, together with point 2 of Part II of Chapter A of Annex III to Regulation 999/2001 in so far as that point applies in relation to animals slaughtered for human consumption.”.

## SCHEDULE 9

Regulation 22

### Consequential Amendments

#### *The Animal By-Products (Identification) Regulations 1995*

1. For regulation 3(3)(b) of the Animal By Products (Identification) Regulations 1995<sup>(57)</sup>, substitute

“(b) any bovine carcase or body part which must be disposed of in accordance with paragraph 5(2) of Schedule 2 to the Transmissible Spongiform Encephalopathies (Scotland) Regulations 2006;”.

#### *The Rendering (Fluid Treatment) (Scotland) Order 2001*

2. In article 2 of the Rendering (Fluid Treatment) (Scotland) Order 2001<sup>(58)</sup> for “the TSE (Scotland) Regulations 2002” substitute, “The Transmissible Spongiform Encephalopathies (Scotland) Regulations 2006;”.

#### *The Meat Products (Scotland) Regulations 2004*

3. The Meat Products (Scotland) Regulations 2004<sup>(59)</sup> are amended as follows.

4. In regulation 2 (interpretation), for “regulation 49 of the TSE (Scotland) Regulations 2002” substitute “paragraph 4 of Schedule 6 to the Transmissible Spongiform Encephalopathies (Scotland) Regulations 2006”.

5. In regulation 6 (parts of the carcase in uncooked meat products), for “the TSE (Scotland) Regulations 2002” substitute “the Transmissible Spongiform Encephalopathies (Scotland) Regulations 2006”.

## SCHEDULE 10

Regulation 23

### REVOCATIONS

<i>Column 1 – enactment</i>	<i>Column 2 – references</i>	<i>Column 3 – extent</i>
The Specified Risk Material Order 1997	S.I.1997/2964	Articles 1 to 4, 6 and 15–18 and Schedules 1 and 2
The Specified Risk Material Regulations 1997	S.I. 1997/2965	The whole Regulations

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<sup>(57)</sup> S.S.I. 1995/614.

<sup>(58)</sup> S.S.I. 2001/189.

<sup>(59)</sup> S.S.I. 2004/6.

<i>Column 1 – enactment</i>	<i>Column 2 – references</i>	<i>Column 3 – extent</i>
The Specified Risk Material (Amendment) Regulations 1997	S.I. <a href="#">1997/3062</a>	The whole Regulations
The Specified Risk Material (Amendment) Regulations 1998	S.I. <a href="#">1998/2405</a>	The whole Regulations
The Specified Risk Material (Coming into Force Date) (Amendment) Regulations 1998	S.I. <a href="#">1998/2431</a>	The whole Regulations
The Specified Risk Material (Inspection Charges) Regulations 1999	S.I. <a href="#">1999/539</a>	The whole Regulations
The Specified Risk Material Order Amendment (Scotland) Regulations 2000	S.S.I. <a href="#">2000/344</a>	The whole Regulations
The Specified Risk Material Amendment (Scotland) Regulations 2000	S.S.I. <a href="#">2000/345</a>	The whole Regulations
The Specified Risk Material Amendment (Scotland) Regulations 2001	S.S.I. <a href="#">2001/3</a>	The whole Regulations
The Specified Risk Material Order Amendment (Scotland) Regulations 2001	S.S.I. <a href="#">2001/4</a>	The whole Regulations
The Restriction on Pithing (Scotland) Regulations 2001	S.S.I. <a href="#">2001/73</a>	The whole Regulations
The Specified Risk Material Amendment (No. 2) (Scotland) Regulations 2001	S.S.I. <a href="#">2001/86</a>	The whole Regulations
The Processed Animal Protein (Scotland) Regulations 2001	S.S.I. <a href="#">2001/276</a>	The whole Regulations
The Specified Risk Material Amendment (Scotland) Order 2001	S.S.I. <a href="#">2001/287</a>	The whole Order
The Specified Risk Material Amendment (No. 3) (Scotland) Regulations 2001	S.S.I. <a href="#">2001/288</a>	The whole Regulations
The Processed Animal Protein Amendment (Scotland) Regulations 2001	S.S.I. <a href="#">2001/383</a>	The whole Regulations
The TSE (Scotland) Regulations 2002	S.S.I. <a href="#">2002/255</a>	The whole Regulations

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*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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<i>Column 1 – enactment</i>	<i>Column 2 – references</i>	<i>Column 3 – extent</i>
The TSE (Scotland) Amendment Regulations 2003	<a href="#">S.S.I. 2003/198</a>	The whole Regulations
The Animal By-Products (Scotland) Regulations 2003	<a href="#">S.S.I. 2003/411</a>	Regulation 5(1) and Part 1 of Schedule 5
The TSE (Scotland) Amendment Regulations 2004	<a href="#">S.S.I. 2004/277</a>	The whole Regulations
The TSE (Scotland) Amendment Regulations 2005	<a href="#">S.S.I. 2005/173</a>	The whole Regulations
The TSE (Scotland) Amendment (No 2) Regulations 2005	<a href="#">S.S.I. 2005/469</a>	The whole Regulations
The Food Hygiene (Scotland) Regulations 2006	<a href="#">S.S.I. 2006/3</a>	Paragraphs 35 to 42 of Schedule 7
The TSE (Scotland) Amendment Regulations 2006	<a href="#">S.S.I. 2006/46</a>	The whole Regulations
The TSE (Scotland) Amendment (No 2) Regulations 2006	<a href="#">S.S.I. 2006/231</a>	The whole Regulations
The TSE (Scotland) Amendment (No. 3) Regulations 2006	<a href="#">S.S.I. 2006/430</a>	The whole Regulations

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision in Scotland for the administration and enforcement of Regulation (EC) No. 999/2001 of the European Parliament and of the Council laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies as amended by and as read with the provisions in Schedule 1 (“the Community TSE Regulation”). They revoke the TSE (Scotland) Regulations 2002.

### **The main regulations**

Regulation 3 provides that the Scottish Ministers are the competent authority for the purposes of the Community TSE Regulation (except in Schedule 6, where the competent authority is the Food Standards Agency).

Regulation 4 provides that the Regulations do not apply to animals in approved research premises.

Regulation 5 introduces the Schedules.

Regulations 6 and 7 deal with approval, authorisation, licensing and registration of premises and the duties of occupiers of such premises. Regulations 8 and 9 deal with suspension, amendment and revocation of approvals, etc.

Regulation 10 describes the procedure for appeals.

Regulation 11 describes the procedure for obtaining a valuation.

Regulation 12 give powers to the Scottish Ministers and the local authority to appoint inspectors.

Regulations 13 and 14 deal with powers of entry and powers of inspectors. Regulation 15 sets out the requirements for notices. Regulation 16 allows movement under licence when a movement restriction is in place. Regulation 17 deals with obstruction of an inspector.

Regulation 18 sets out the penalties for offences. Regulation 19 deals with offences by bodies corporate. Regulation 20 identifies the enforcement authorities for the Regulations

Regulations 21 to 23 provide for amendments to and revocation of other statutory instruments.

### **Schedule 1**

Schedule 1 lists the EU instruments that amend the Community TSE Regulation No. 999/2001.

### **Schedule 2**

Schedule 2 deals with monitoring for TSEs.

Paragraph 1 provides for notification to the Scottish Ministers of fallen stock that must be tested for TSE.

Paragraph 2 makes it an offence to consign an over age bovine animal to a slaughterhouse for human consumption or to slaughter such an animal for human consumption.

Paragraph 3 provides for brain stem sampling of specified bovine animals (BSE testing).

Paragraph 4 provides that slaughterhouses cannot be used for slaughtering bovine animals over 30 months old unless Scottish Ministers have approved a Required Method of Operation (“RMOP”).

Paragraph 5 provides for retention and disposal of carcasses and body parts. Paragraph 6 provides for compensation.

Paragraphs 7 to 14 set out the operating systems for slaughtering and testing for BSE to be described in the RMOP.

### **Schedule 3**

Schedule 3 deals with control and eradication of TSEs in bovine animals.

Paragraph 1 provides that the Scottish Ministers shall be notified if an animal is suspected of having a TSE and paragraph 2 provides for restrictions on the movement of the animal.

Paragraph 3 provides that a suspect animal shall be killed and restrictions placed on the movement of other animals on the holding.

Paragraph 4 provides that the progeny and cohort of the suspect animal shall be placed under movement restrictions pending the results of the test on the suspect animal. Paragraph 5 provides that they shall be killed if BSE is confirmed.

Paragraph 6 deals with animals that die while under movement restriction.

Paragraph 7 provides that the progeny of an animal confirmed as having BSE shall not be placed on the market.

Paragraphs 8 and 9 provide for compensation for animals killed under Schedule 3.

#### **Schedule 4**

Schedule 4 deals with control and eradication of TSE in sheep and goats.

Paragraph 1 provides that the Scottish Ministers must be notified that an animal is suspected of having a TSE and paragraph 2 provides for restrictions on the movement of the animal.

Paragraph 3 provides for restrictions on movement and the killing of a suspect animal.

Paragraph 4 provides for restrictions on the movement of other animals and paragraph 5 provides for the lifting of restrictions if TSE is not confirmed.

Paragraph 6 provides for identification of specified animals and for requirements of notice of the action to be taken when a TSE is confirmed.

Paragraphs 7 provides for the implementation of eradication measures following confirmation of a TSE in goats and paragraph 8 provides for eradication measures following confirmation of BSE in sheep or goats.

Paragraph 9 deals with time limits for appeals.

Paragraph 10 provides for the killing of animals and destruction of products following confirmation of a TSE.

Paragraphs 11 provides for the implementation of eradication measures on other holdings and paragraphs 12 and 13 deal with land with more than one flock.

Paragraph 14 deals with information to be provided to subsequent occupiers of the land.

Paragraphs 15 to 19 set out the procedures to be followed after eradication measures have been undertaken; paragraph 15 restricts the introduction of animals onto a holding, paragraph 16 regulates the use of ovine germinal products, paragraph 17 restricts the movement of animals from a holding, paragraph 18 provides for the length of time of restrictions and paragraph 19 provides for notification of animals that die while under restriction.

Paragraph 20 provides that the progeny of any sheep or goat confirmed as having a TSE shall not be placed on the market.

Paragraph 21 provides that the Scottish Ministers must be notified if it is intended to consign sheep aged over 18 months for slaughter.

Paragraph 22 deals with derogations.

Paragraphs 23 to 25 provide for compensation.

#### **Schedule 5**

Schedule 5 deals with feedingstuffs.

Paragraphs 1 and 2 contain prohibitions on feeding specified feedingstuffs to specified animals and paragraph 3 provides for exceptions to the prohibitions.

Paragraphs 4 and 5 provide for killing or restriction of animals suspected of having been fed specified materials, and paragraph 6 provides for compensation for animals killed. Paragraph 7 prohibits for the slaughter for human consumption of animals suspected of having been fed the specified materials.

Paragraphs 8 and 9 regulate the production, labelling, transportation and use of fishmeal for feeding to non ruminant animals.

Paragraphs 10 and 11 regulate the production, labelling, transportation and use of feedingstuffs containing dicalcium phosphate or tricalcium phosphate.

Paragraphs 12 and 13 regulate the production, labelling, transportation and use of feedingstuffs containing blood products and blood meal.

Paragraph 14 makes provision for changes in use of equipment.

Paragraph 15 regulates the storage and transportation of specified bulk protein products and feedingstuffs containing them.

Paragraph 16 regulates the manufacture, storage, transportation or packing of feedingstuff and petfood containing specified material.

Paragraph 17 controls exports of processed animal protein.

Paragraph 18 regulates the sale, supply and use of fertilisers derived from animal protein.

Paragraph 19 deals with petfood with animal proteins not intended for use as petfood.

Paragraph 20 provides for labelling of feedingstuff from premises producing processed animal protein.

Paragraphs 21 and 22 deal with registration of home compounders and transporters and their duties.

Paragraphs 23 and 24 deal with suspension, amendment and revocation of registration.

### **Schedule 6**

Schedule 6 deals with the removal and treatment of specified risk material, mechanically recovered meat and slaughtering techniques. Paragraph 1 appoints the Food Standards Agency as the competent authority for this Schedule. Paragraph 2 imposes certain duties on local authorities in relation to butcher shops.

Paragraph 3 makes provision for training of slaughterhouse, cutting plant and butcher shop staff.

Paragraph 4 deals with mechanically recovered meat, paragraph 5 with pithing, paragraph 6 with tongue harvesting and paragraph 7 with head meat harvesting.

Paragraph 8 controls the removal of specified risk material, and paragraphs 9 and 10 deal with bovine animals and sheep and goats at a slaughterhouse.

Paragraph 11 deals with young lamb and goat stamps.

Paragraph 12 deals with the removal of spinal cord from sheep and goats.

Paragraph 13 provides for the authorisation of cutting plants, and paragraph 15 controls the removal of specified risk material at a cutting plant.

Paragraph 16 provides for removal of vertebral column that is specified risk material at cutting plants not authorised under paragraph 13.

Paragraph 14 provides for the authorisation and registration of butcher shops, and paragraph 17 controls the removal of specified risk material at such shops.

Paragraph 18 deals with meat from other member States.

Paragraphs 19 and 20 require the staining of specified risk material, and paragraph 21 provides for the security of specified risk material.

Paragraph 22 prohibits the supply of specified risk material for human consumption.

### **Schedule 7**

Paragraph 1 prohibits the dispatch of certain live animals, meat and certain specified risk material to other member States and to third countries. Paragraph 2 prohibits the dispatch of bovine heads and meat containing specified risk material to third countries.

### **Schedules 8, 9 and 10**

Schedule 8 makes miscellaneous amendments to other statutory instruments, Schedule 9 makes consequential amendments to other statutory instruments and Schedule 10 contains revocations.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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A regulatory impact assessment has been prepared and placed in the Scottish Parliament Information Centre. Copies may be obtained from the Scottish Executive Environment and Rural Affairs Department, Pentland House, 47 Robb's Loan, Edinburgh EH14 1TY and from the Food Standards Agency, 6th Floor, St Magnus House, 25 Guild Street, Aberdeen AB11 6NJ.